

APPENDIX

TO THE HISTORY OF THE ELEVENTH CONGRESS.

[FIRST AND SECOND SESSIONS.]

COMPRISING THE MOST IMPORTANT DOCUMENTS ORIGINATING DURING THAT CONGRESS, AND THE PUBLIC ACTS PASSED BY IT

GREAT BRITAIN.

[Communicated May 23, and June 16, 1809.]

Mr. Erskine to Mr. Smith.

WASHINGTON, April 17, 1809.

SIR: I have the honor to inform you, that I have received His Majesty's command to represent to the Government of the United States, that His Majesty is animated by the most sincere desire for an adjustment of the differences which have unhappily so long prevailed between the two countries, the recapitulation of which might have a tendency to impede, if not prevent an amicable understanding.

It having been represented to His Majesty's Government, that the Congress of the United States, in their proceedings at the opening of the last session, had evinced an intention of passing certain laws which would place the relations of Great Britain with the United States upon an equal footing, in all respects, with the other belligerent Powers, I have accordingly received His Majesty's commands, in the event of such laws taking place, to offer, on the part of His Majesty, an honorable reparation for the aggression, committed by a British naval officer, in the attack on the United States' frigate Chesapeake.

Considering the act passed by the Congress of the United States, on the 1st of March, (usually termed the non-intercourse act,) as having produced a state of equality in the relations of the two belligerent Powers, with respect to the United States, I have to submit, conformably to instructions, for the consideration of the American Government, such terms of satisfaction and reparation, as His Majesty is induced to believe will be accepted in the same spirit of conciliation with which they are proposed.

In addition to the prompt disavowal made by His Majesty, on being apprized of the unauthorized act, committed by his naval officer, whose recall, as a mark of the King's displeasure, from a highly important and honorable command, immediately ensued, His Majesty is willing to restore the men forcibly taken out of the Chesapeake, and, if acceptable to the American Government, to make a suitable provision for the unfortunate sufferers on that occasion. I have the honor to be, &c.

D. M. ERSKINE.

HON. ROBERT SMITH, &c.

Mr. Smith to Mr. Erskine.

DEPARTMENT OF STATE,
April 17, 1809.

SIR: I have laid before the President your note, in which you have, in the name and by the order of His Britannic Majesty, declared that His Britannic Majesty is desirous of making an honorable reparation for the aggression committed by a British naval officer in the attack on the United States' frigate the Chesapeake; that, in addition to his prompt disavowal of the act, His Majesty, as a mark of his displeasure, did immediately recall the offending officer from a highly important and honorable command; and that he is willing to restore the men forcibly taken out of the Chesapeake, and, if acceptable to the American Government, to make a suitable provision for the unfortunate sufferers on that occasion.

The Government of the United States having, at all times, entertained a sincere desire for an adjustment of the differences which have so long and so unhappily subsisted between the two countries, the President cannot but receive with pleasure assurances that His Britannic Majesty is animated by the same disposition, and that he is ready, in conformity to this disposition, to make atonement for the insult and aggression committed by one of his naval officers in the attack on the United States' frigate the Chesapeake.

As it appears, at the same time, that, in making this offer, His Britannic Majesty derives a motive from the equality, now existing, in the relations of the United States with the two belligerent Powers, the President owes it to the occasion, and to himself, to let it be understood that this equality is a result incident to a state of things, growing out of distinct considerations.

With this explanation, as requisite as it is frank, I am authorized to inform you that the President accepts the note delivered by you, in the name and by the order of His Britannic Majesty, and will consider the same, with the engagement contained therein, when fulfilled, as a satisfaction for the insult and injury of which he has complained. But I have it in express charge from the President to state, that, while he forbears to insist on a further punishment of the offending officer, he is not the less sensible of the justice and utility of such an example, nor the less persuaded that it would best comport with what is due from His

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Britannic Majesty to his own honor. I have the honor to be, &c.

R. SMITH.

Hon. D. M. ERSKINE, &c.

Mr. Erskine to Mr. Smith.

WASHINGTON, April 18, 1809.

SIR: I have the honor of informing you that His Majesty, having been persuaded that the honorable reparation which he had caused to be tendered for the unauthorized attack upon the American frigate Chesapeake, would be accepted by the Government of the United States in the same spirit of conciliation with which it was proposed, has instructed me to express his satisfaction, should such a happy termination of that affair take place, not only as having removed a painful cause of difference, but as affording a fair prospect of a complete and cordial understanding being re-established between the two countries.

The favorable change in the relations of His Majesty with the United States, which has been produced by the act (usually termed the non-intercourse act) passed in the last session of Congress, was also anticipated by His Majesty, and has encouraged a further hope that a reconsideration of the existing differences might lead to their satisfactory adjustment.

On these grounds and expectations, I am instructed to communicate to the American Government His Majesty's determination of sending to the United States an Envoy Extraordinary, invested with full powers to conclude a treaty on all the points of the relations between the two countries.

In the mean time, with a view to contribute to the attainment of so desirable an object, His Majesty would be willing to withdraw his Orders in Council of January and November, 1807, so far as respects the United States, in the persuasion that the President would issue a proclamation for the renewal of the intercourse with Great Britain, and that whatever difference of opinion should arise in the interpretation of the terms of such an agreement, will be removed in the proposed negotiation.

I have the honor to be, &c.

D. M. ERSKINE.

Hon. ROBERT SMITH, &c.

Mr. Smith to Mr. Erskine.

DEPARTMENT OF STATE.

April 18, 1809.

SIR: The note, which I had the honor of receiving from you this day, I lost no time in laying before the President, who, being sincerely desirous of a satisfactory adjustment of the differences unhappily existing between Great Britain and the United States, has authorized me to assure you that he will meet, with a disposition correspondent with that of His Britannic Majesty, the determination of His Majesty to send to the United States a special envoy, invested with full powers to conclude a treaty on all points of the relations between the two countries.

I am further authorized to assure you, that in case His Britannic Majesty should, in the mean time, withdraw his Orders in Council of January and November, 1807, so far as respects the United States, the President will not fail to issue a proclamation, by virtue of the authority, and for the purposes specified in the eleventh section of the statute commonly called the non-intercourse act.

I have the honor to be, &c.

R. SMITH.

Hon. D. ERSKINE, &c.

Mr. Erskine to Mr. Smith.

WASHINGTON, April 19, 1809.

SIR: In consequence of the acceptance by the President, as stated in your letter dated the 18th instant, of the proposals made by me on the part of his Majesty, in my letter of the same day, for the renewal of the intercourse between the respective countries, I am authorized to declare, that His Majesty's Orders in Council of January and November, 1807, will have been withdrawn as respects the United States on the 10th day of June next.

I have the honor to be, &c.

D. M. ERSKINE.

Hon. ROBERT SMITH, &c.

Mr. Smith to Mr. Erskine.

DEPARTMENT OF STATE,

April 19, 1809.

SIR: Having laid before the President your note of this day, containing an assurance that His Britannic Majesty will, on the 10th day of June next, have withdrawn his Orders in Council of January and November, 1807, so far as respects the United States, I have the honor of informing you, that the President will, accordingly, and in pursuance of the eleventh section of the statute, commonly called the non-intercourse act, issue a proclamation, so that the trade of the United States with Great Britain may, on the same day, be renewed in the manner provided in the said section.

I have the honor to be, &c.

R. SMITH.

Hon. D. M. ERSKINE, &c.

By the President of the United States.

A PROCLAMATION.

Whereas it is provided by the eleventh section of the act of Congress, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes;" that, "in case either France or Great Britain shall so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States," the President is authorized to declare the same by proclamation; after which the trade suspended by the said act, and by an act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, may be

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renewed with the nation so doing; and whereas the Hon. David Montague Erskine, His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has, by the order and in the name of his Sovereign, declared to this Government that the British Orders in Council of January and November, 1807, will have been withdrawn, as respects the United States, on the 10th day of June next: Now, therefore, I, James Madison, President of the United States, do hereby proclaim that the Orders in Council aforesaid will have been withdrawn on the said 10th day of June next; after which day the trade of the United States with Great Britain, as suspended by the act of Congress above-mentioned, and an act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, may be renewed.

Given under my hand, and the seal of the United States, at Washington, the nineteenth day of April, in the year of our [L. s.] Lord one thousand eight hundred and nine, and of the independence of the United States the thirty-third.

JAMES MADISON.

By the President:

R. SMITH, *Secretary of State.*

Mr. Erskine to Mr. Smith.

WASHINGTON, June 15, 1809.

SIR: I have the honor to enclose a copy of an order of His Majesty in Council, issued on the 26th of April last.

In consequence of official communications sent to me from His Majesty's Government, since the adoption of that measure, I am enabled to assure you, that it has no connexion whatever with the overtures which I have been authorized to make to the Government of the United States, and that I am persuaded that the terms of the agreement, so happily concluded by the recent negotiation, will be strictly fulfilled on the part of His Majesty.

The internal evidence of the order itself would fully justify the foregoing construction; and, moreover, it will not have escaped your notice, that the repeal has not thereby been made of the orders of the 7th of January, 1807, which, according to the engagement I have entered into on the part of His Majesty, is to be abrogated with the other orders, in consequence of the adjustment of differences between the two countries, and the confidence entertained of a further conciliatory understanding.

I have the honor to be, &c.

D. M. ERSKINE.

Hon. R. SMITH, &c.

Mr. Smith to Mr. Erskine.

DEPARTMENT OF STATE,
June 15, 1809.

SIR: I have the honor to acknowledge the receipt of your note of this day, communicating

the Order in Council, issued by His Britannic Majesty, on the 26th of April last.

However well persuaded the President may at all times have been, that the arrangement, so happily effected by the late negotiation, would be strictly fulfilled on the part of His Britannic Majesty, he has, nevertheless, received with satisfaction your renewed assurance to that effect, with the further assurance, founded on official communications to you from your Government, since the adoption of the Order in Council of the 26th of April, that that order was not intended to have any connexion whatever with the overtures which you had been authorized to make to the Government of the United States.

I have the honor, &c.

R. SMITH.

RUSSIA.

[Communicated to the Senate, June 26, 1809.]
To the Senate of the United States:

The considerations which led to the nomination of a Minister Plenipotentiary to Russia, being strengthened by evidence since received of the earnest desire of the Emperor to establish a diplomatic intercourse between the two countries, and of a disposition in his Councils favorable to the extension of a commerce mutually advantageous, as will be seen by the extracts from letters from General Armstrong and Consul Harris, herewith confidentially communicated:

I nominate John Quincy Adams, of Massachusetts, to be Minister Plenipotentiary of the United States to the Court of St. Petersburg.

JAMES MADISON.

JUNE 26, 1809.

Mr. Harris to Mr. Madison.

ST. PETERSBURG,
July 7 [19,] 1808.

SIR: No opportunity has offered for the conveyance of the enclosed since the date thereof; this delay has enabled me to transmit you a copy of a note which has been written me by the Minister of Foreign Affairs, announcing the appointment of Mr. de Daschoff, in quality of *Chargé d'Affaires* and Consul General of the United States.

The Minister, in a particular conference I had with him, assured me of the great desire of the Emperor that this gentleman should proceed to his destination without delay, and personally carry His Majesty's sentiments upon the subject of the relations he was so anxious should be firmly established between the two States.

As a direct opportunity to America is likely to offer in about two weeks, I shall defer writing you more particularly until then, and have the honor to remain, with the greatest respect, sir, your most obedient servant,

LEVETT HARRIS.

Hon. JAMES MADISON.

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[TRANSLATION.]

Count de Romanzoff to Mr. Harris.

St. PETERSBURG, June 13, 1808.

The undersigned, Minister of Foreign Affairs, has the honor to inform Mr. Levett Harris, that His Imperial Majesty, wishing more and more to strengthen the ties of friendship between Russia and the United States of America, has judged it proper to name Mr. Daschoff, *assesseur* of the College, his Consul General to Philadelphia, conferring on him, at the same time, the title of his *Chargé d'Affaires* near the Congress of the United States.

The undersigned prays the Consul General to communicate this to his Government, and he seizes this occasion to reiterate to him the assurances of his distinguished consideration.

N. DE ROMANZOFF.

Extract of a letter from General Armstrong, Minister Plenipotentiary of the United States at Paris, to the Secretary of State, dated.

PARIS, November 24, 1808.

Mr. Short, who arrived on the 15th instant, and who delivered to me your letter of the 9th of September, not wishing to have his appointment known here, it has accordingly been concealed. But though this course has been adopted, and is still observed in conformity to Mr. Short's personal wishes, I did not think myself at liberty to keep from the Russian Minister of Foreign Relations (who is now here) the fact, that the President determined to send a Minister to St. Petersburg, and that his arrival there might be soon expected. The manner in which the Count received this intelligence showed the propriety of giving it. Besides expressions of the highest satisfaction on his own part, as well as on that of his master, he immediately dispatched a courier to St. Petersburg, for the purpose of arresting or modifying the arrangements already taken, or about to be taken, with regard to Mr. Daschoff's departure for America. He wished, in particular, to be informed of the grade of public character which the gentleman appointed would bring with him, and added, that "an Imperial Minister of equal rank would be immediately appointed." Nor did he stop here: "Ever since I came into office," he said, "I have been desirous of producing this effect; for dissolving our commercial connexions with Great Britain, it became necessary to seek some other Power in whom we might find a substitute; and, on looking around I could see none but the United States who were at all competent to this object."

GREAT BRITAIN.

[Communicated December 16, 1809, and May 1, 1810.]
To the House of Representatives of the United States:
WASHINGTON, December 16 1809.

Agreeably to the request expressed in the resolution of the 13th instant, I lay before the House

extracts from the correspondence of the Minister Plenipotentiary of the United States at London.
JAMES MADISON.

Brief account of an unofficial conversation between Mr. Canning and Mr. Pinkney, on the 18th of January, 1809, continued on the 22d of the same month. [Transmitted by Mr. Pinkney to the Secretary of State.]

I dined at Mr. Canning's, with the *corps diplomatique*, on the 18th January. Before dinner he came up to me, and, entering into conversation, adverted to a report which he said had reached him that the American Ministers (here and in France) were about to be recalled. I replied, that I was not aware that such a step had been resolved upon. He then took me aside, and observed, that, according to his views of the late proceedings of Congress, the resolutions of the House of Representatives, in the Committee of the Whole, appeared to be calculated, if passed into a law, to remove the impediments to arrangement with the United States, on the subject of the Orders in Council and the Chesapeake, by taking away the discrimination between Great Britain and France in the exclusion of vessels of war from American ports. He added that it was another favorable circumstance that the non-importation system, which seemed to be in contemplation, was to be applied equally to both parties, instead of affecting, as heretofore, Great Britain alone.

I proposed to Mr. Canning that I should call on him in the course of a day or two for the purpose of a free communication upon what he had suggested. To this he readily assented; and it was settled that I should see him on Sunday following (the 22d,) at twelve o'clock, at his own house.

In the interview of the 22d, Mr. Canning's impressions appeared to be in all respects the same with those which he had mentioned on the 18th; and I said everything which I thought consistent with candor and discretion to confirm him in his disposition to seek the re-establishment of good understanding with us, and especially to see, in the expected act of Congress, (if it should pass,) an opening for reconciliation.

It was of some importance to turn their attention here, without loss of time, to the manner of any proceeding that might be in their contemplation. It seemed that the resolutions of the House of Representatives, if enacted into a law, might render it proper, if not indispensable, that the affair of the Chesapeake should be settled at the same time with the business of the orders and embargo, and this I understood to be Mr. Canning's opinion and wish. It followed that the whole matter ought to be settled at Washington, and, as this was moreover desirable on various other grounds, I suggested that it would be well (in case a special mission did not meet their approbation) that the necessary powers should be sent to Mr. Erskine.

In the course of conversation, Mr. Canning

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proposed several questions relative to our late proposal; the principal were the two following:

1st. In case they should wish, either through me or through Mr. Erskine, to meet us upon the basis of our late overture, in what way was the effectual operation of our embargo as to France, &c., after it should be taken off as to Great Britain, to be secured? It was evident, he said, that if we should do no more than refuse clearances for the ports of France, &c., or prohibit, under penalties, voyages to such ports, the effect which my letter of the 23d of August, and my published instructions, proposed to have in view, would not be produced; for that vessels, although cleared for British ports, might, when once out, go to France instead of coming here; and that this would in fact be so, (whenever the penalties which the American laws might denounce against offenders) could not, he imagined, be doubted; and he, therefore, presumed that the Government of the United States would not, after it had itself declared a commerce with France, &c., illegal, and its citizens who should engage in it delinquents, and after having given to Great Britain, by compact, an interest in the strict observation of the prohibition, complain if the naval force of this country should assist in preventing such a commerce.

2d. He asked whether there would be any objection to making the repeal of the British orders and the American embargo contemporaneous? He seemed to consider this as indispensable. Nothing could be less admissible, he said, than that Great Britain, after rescinding her orders, should for any time, however short, be left subject to the embargo in common with France, whose decrees were subsisting, with a view to an experiment upon France, or with any other view. The United States could not, upon their own principles, apply the embargo to this country one moment after its orders were removed, or decline, after that event, to apply it exclusively to France, and the Powers connected with her in system.

I took occasion, towards the close of our conversation, to mention the recent appointment of Admiral Berkeley to the Lisbon station. Mr. Canning said, that whatever might be their inclination to consult the feelings of the American Government on that subject, it was impossible for the Admiralty to resist the claim of that officer to be employed (no other objection existing against him) after such a lapse of time since his return from Halifax, without bringing him to a court martial. The usage of the navy was, in this respect, different from that of the army. But I understood Mr. Canning to say that he might still be brought to a court martial, although I did not understand him to say that this would be the case. He said that Admiral Berkeley, in what he had done, had acted wholly without authority. I did not propose to enter into any discussion upon the subject, and therefore contented myself with speaking of the appointment as unfortunate.

In both of these conversations, Mr. Canning's language and manner were in the highest degree conciliatory.

Copy of a despatch from Mr. Secretary Canning to the Honorable D. M. Erskine.

FOREIGN OFFICE, *January 23, 1809.*

SIR: If there really exist in those individuals who are to have a leading share in the new Administration of the United States that disposition to come to a complete and cordial understanding with Great Britain, of which you have received from them such positive assurances in meeting that disposition, it would be useless and unprofitable to recur to a recapitulation of the causes from which the differences between the two Governments have arisen, or of the arguments already so often repeated in support of that system of retaliation to which His Majesty has unwillingly had recourse.

That system His Majesty must unquestionably continue to maintain, unless the object of it can be otherwise accomplished.

But after the profession, on the part of so many of the leading members of the Government of the United States, of a sincere desire to contribute to that object in a manner which should render the continuance of the system adopted by the British Government unnecessary, it is thought right that a fair opportunity should be afforded to the American Government to explain its meaning, and give proof of its sincerity.

The extension of the interdiction of the American harbors to the ships of war of France as well as of Great Britain, is, as stated in my former despatch, an acceptable system of impartiality towards both belligerents; the first that has been publicly manifested by the American Government.

The like extension of the non-importation act to other belligerents is equally proper in this view. These measures remove those preliminary objections, which must otherwise have precluded any useful or amicable discussion.

In this state of things, it is possible for Great Britain to entertain propositions which, while such manifest partiality was shown to her enemies, were not consistent either with her dignity or her interest.

From the report of your conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith, it appears:

1. That the American Government is prepared, in the event of His Majesty's consenting to withdraw the Orders in Council of January and November, 1807, to withdraw contemporaneously on its part the interdiction of its harbors to ships of war, and all non-intercourse and non-importation acts, so far as respects Great Britain; leaving them in force with respect to France, and the Powers which adopt or act under her decrees.

2. (What is of the utmost importance, as precluding a new source of misunderstanding which might arise after the adjustment of the other questions,) that America is willing to renounce, during the present war, the pretension of carrying on in time of war all trade with the enemy's colonies, from which she was excluded during peace.

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3. Great Britain, for the purpose of securing the operation of the embargo, and of the *bona fide* intention of America to prevent her citizens from trading with France and the Powers adopting and acting under the French decrees, is to be considered as being at liberty to capture all such American vessels as may be found attempting to trade with the ports of any of these Powers; without which security for the observance of the embargo, the raising of it nominally with respect to Great Britain alone, would, in fact, raise it with respect to all the world.

On these conditions His Majesty would consent to withdraw the Orders in Council of January and November, 1807, so far as respects America.

As the first and second of these conditions are the suggestions of the persons in authority in America to you, and as Mr. Pinkney has recently (but for the first time) expressed to me his opinion that there will be no indisposition on the part of his Government to the enforcement, by the naval power of Great Britain, of the regulations of America with respect to France and the countries to which these regulations continue to apply, but that his Government was itself aware that without such enforcement those regulations must be altogether nugatory, I flatter myself that there will be no difficulty in obtaining a distinct and official recognition of these conditions from the American Government.

For this purpose, you are at liberty to communicate this despatch *in extenso* to the American Government.

Upon receiving through you, on the part of the American Government, a distinct and official recognition of the three above-mentioned conditions, His Majesty will lose no time in sending to America a Minister fully empowered to consign them to a formal and regular treaty.

As, however, it is possible that the delay which must intervene before the actual conclusion of a treaty may appear to the American Government to deprive this arrangement of a part of its benefits, I am to authorize you, if the American Government should be desirous of acting upon the agreement before it is reduced into a regular form, (either by the immediate repeal of the embargo and the other acts in question, or by engaging to repeal them on a particular day,) to assure the American Government of His Majesty's readiness to meet such a disposition in the manner best calculated to give it immediate effect.

Upon the receipt here of an official note containing an engagement for the adoption by the American Government of the three conditions above specified, His Majesty will be prepared on the faith of such engagement, either immediately, (if the repeal shall have been immediate in America,) or on any day specified by the American Government for that repeal, reciprocally to recall the Orders in Council, without waiting for the conclusion of the treaty; and you are authorized, in the circumstances herein described, to make such reciprocal engagement on His Majesty's behalf. I am, &c.

Extract of a letter from the Secretary of State to William Pinkney, Esq., Minister Plenipotentiary of the United States in London.

DEPARTMENT OF STATE, March 15, 1809.

The proceedings of Congress, at their late session, combined with the Executive communications, affording as they do additional proofs of the pacific disposition of this Government, and of its strict observance of whatever the laws of neutrality require, you will not fail to avail yourself of the just arguments thence deducible in urging the equitable claims of the United States. The first, second, third, fourth, eleventh, and seventeenth sections of the act interdicting commercial intercourse with Great Britain and France, will, in that view, claim your attention, and especially the eleventh section, authorizing the Executive to renew our commerce with the nation withdrawing the operation of its illegal edicts. And you will be careful to let it be understood that the authority thus vested will, of course, be exercised in the event stated in the law.

Extracts of a letter from Mr. Pinkney, Minister Plenipotentiary of the United States at London, to Mr. Smith Secretary of State.

LONDON, May 1, 1809.

Upon the receipt of your letter of the 15th of March, it became my obvious duty to ask a conference with Mr. Canning. It took place accordingly on Monday the 17th of April.

With a view to do justice to the character and tendency of the law of the 1st of March, I called the attention of Mr. Canning in a particular manner to the eleventh section, which provides for the renewal of commercial intercourse with the Power revoking, or so modifying its edicts as that they should cease to violate the neutral commerce of the United States; and, in obedience to my instructions, I assured him that the authority vested in the President to proclaim such revocation or modification, would not fail to be exercised as the case occurred.

I entered into a minute explanation of the law of the 1st of March, and, in the course of it, availed myself of every inducement of interest which it could be supposed to furnish to this Government to retract its Orders in Council, and of the proofs with which it abounds of the sincere desire of the American Government to cultivate peace and friendship with Great Britain, even while it was repelling what it deemed encroachments and injuries the most pernicious and alarming.

Mr. Canning to Mr. Pinkney.

FOREIGN OFFICE, May 27, 1809.

SIR: According to the intimation which I gave to you in our last conference, I have now the honor to enclose to you a copy of the Order in Council which His Majesty has directed to be issued for the purpose of preventing, as far as possible, any inconvenience or detriment to the merchants of the United States who may have entered into

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commercial speculations on the faith of the unauthorized engagements of Mr. Erskine, previously to the notification in America of His Majesty's disavowal of those engagements.

Having had the honor to read to you *in extenso* the instructions with which Mr. Erskine was furnished, it is not necessary for me to enter into any explanation of those points in which Mr. Erskine has acted, not only not in conformity, but in direct contradiction to them.

I forbear, equally, from troubling you, sir, with any comment on the manner in which Mr. Erskine's communications have been received by the American Government, or upon the terms and spirit of Mr. Smith's share of the correspondence.

Such observations will be communicated more properly through the Minister whom His Majesty has directed to proceed to America, not on any special mission, (which Mr. Erskine was not authorized to promise, except upon conditions, not one of which he has obtained,) but as the successor of Mr. Erskine, whom his Majesty has not lost a moment in recalling.

I have the honor to be &c.

GEORGE CANNING.

To WILLIAM PINKNEY, Esq., &c.

No. 1.

Mr. Erskine to Mr. Smith.

WASHINGTON, July 31, 1809.

SIR: I have the honor to enclose to you a copy of an Order which was passed by His Majesty in Council on the 24th of May last.

In communicating this order, it is with the deepest regret that I have to inform you that His Majesty has not thought proper to confirm the late provisional agreement which I had entered into with you on the part of our respective Governments.

Neither the present time, nor the occasion, will afford me a favorable opportunity for explaining to you the grounds and reasons upon which I conceived I had conformed to His Majesty's wishes, and to the spirit, at least, of my instructions upon that subject; nor, indeed, would any vindication of my conduct, whatever I may have to offer, be of any importance, further than as it might tend to show that no intention existed on my part to practise any deception towards the Government of the United States.

I have the satisfaction, however, to call your attention to that part of the enclosed order which protects the commerce and shipping of the United States from the injury and inconveniences which might have arisen to American citizens from a reliance on the provisional agreement before mentioned; and I cannot but cherish a hope that no further bad consequences may result from an arrangement which I had fully believed would have met His Majesty's approbation, and would have led to a complete and cordial understanding between the two countries.

With sentiments of high respect, &c.

D. M. ERSKINE.

[From the London Gazette, May 27.]

At the Court at the Queen's palace, the 24th May, 1809: Present, the King's Most Excellent Majesty in Council.

Whereas, His Majesty was pleased, by his Order in Council of the 26th of April last, to declare certain ports and places of the countries which have been lately styled the kingdom of Holland, to be subject to the restrictions incident to a strict and rigorous blockade, as continued from His Majesty's former order of the 11th of November, 1807; and whereas, advices have been received of a certain provisional agreement entered into by His Majesty's Envoy Extraordinary and Minister Plenipotentiary in America, with the Government of the United States, whereby it is understood that His Majesty's Orders in Council of the 7th January, and of the 11th of November, 1807, shall be withdrawn, so far as respects the United States, on the tenth of June next.

And whereas, although the said *provisional* agreement is not such as was authorized by His Majesty's instructions, or such as His Majesty can approve, it may already have happened, or may happen, that persons being citizens of the United States may be led, by a reliance on the said provisional arrangement to engage in trade with and to the said ports and places of Holland, contrary to, and in violation of the restrictions imposed by the said orders of the 7th of January, and of the 11th of November, 1807, as altered by the order of the 26th of April last; His Majesty, in order to prevent any inconveniences that may ensue from the circumstances above recited, is pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, that the said several orders shall be suspended, so far as is necessary for the protection of vessels of the said United States, so sailing under the faith of the said provisional agreement, viz: That after the 9th day of June next, no vessel of the United States which shall have cleared out between the 19th of April last and the 20th July ensuing, for any of the ports of Holland aforesaid, from any port of the United States, shall be molested or interrupted in her voyage by the commanders of His Majesty's ships or privateers.

And it is further ordered, That no vessels of the United States which shall have cleared out from any port of America, previous to the 20th of July next, for any other permitted port, and shall, during her voyage, have changed her destination in consequence of information of the said provisional agreement, and shall be proceeding to any of the ports of Holland aforesaid, shall be molested or interrupted by the commanders of any of His Majesty's ships or privateers, unless such vessel shall have been informed of this order on her voyage, or shall have been warned not to proceed to any of the ports of Holland, aforesaid, and shall, notwithstanding such warning, be found attempting to proceed to any such port.

And it is further ordered, That after the said 9th day of June next, no vessel of the said Uni-

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ted States, which shall have cleared out for, or be destined to any of the ports of Holland, from any port or place not subject to the restrictions of the said order of the 26th of April last, after notice of such provisional agreement, as aforesaid, shall be molested or interrupted in her voyage by the commanders of His Majesty's ships or privateers, provided such vessel shall have so cleared out previous to actual notice of this order at such place of clearance, or, in default of proof of actual notice previous to the like periods of time, after the date of this order, as are *fixed for constructive notice* of His Majesty's orders of the 11th of November, 1808, by the orders of the 25th of November, 1807, and of the 18th of May, 1808, at certain places and latitudes therein mentioned, unless such vessel shall have been informed of this order on her voyage, and warned by any of His Majesty's ships or privateers not to proceed to any port of Holland, and shall, notwithstanding such warning, attempt to proceed to any such port.

And His Majesty is pleased further to order, and it is hereby ordered, That the said several orders of the 7th of January, and 11th November, 1807, as altered by the said order of the 26th of April last, shall also be suspended, so far as is necessary for the protection of vessels of the said United States which shall clear out to any ports not declared to be under the restriction of blockade from any port of Holland, between the ninth day of June and the first day of July next; *Provided always,* That nothing that is contained in the present order shall extend, or be construed to extend, to protect any vessels or their cargoes that may be liable to condemnation or detention for any other cause than the violation of the aforesaid orders of the 7th of January, and 11th of November, 1807, as altered by the said order of the 26th of April last.

Provided also, That nothing in this order contained shall extend, or be construed to extend, to protect any vessels which shall attempt to enter any port actually blockaded by any of His Majesty's ship of war.

And the right honorable the Lords Commissioners of His Majesty's Treasury, His Majesty's Principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judge of the High Court of Admiralty, and the Judges of the Courts of Vice Admiralty, are to take the necessary measures herein as to them may respectively appertain.

STEPHEN COTTRELL.

Mr. Pinkney to Mr. Canning.

GREAT CUMBERLAND PLACE,

May 29, 1809

SIR: I have received the communication which you did me the honor to address to me on the 27th instant, and will hasten to transmit it to the Secretary of State of the United States.

No instructions or information from my Government concerning the transactions in America to which your communication alludes having

reached me, I can only express my concern that the conciliatory arrangements concerted and concluded, as you have done me the honor to inform me, between the American Secretary of State and His Majesty's accredited Minister at Washington, acting in consequence, and professing to act in pursuance of regular instructions from his Court, are not likely to have all that effect which was naturally to have been expected from them.

I have the honor to be, &c.

WILLIAM PINKNEY.

The Right Hon. G. CANNING, &c.

Extract of a letter from Mr. Pinkney to the Secretary of State.

LONDON, June 6, 1809.

Mr. Canning tells me that the conversations detailed in Mr. Erskine's letter did not, as I had supposed, suggest that the Government of the United States would allow it to be understood that British cruisers might stop American vessels attempting to violate the embargo and non-intercourse, continuing as to France, &c. after they should have been withdrawn as to Great Britain. They suggested that the United States would side with the Power revoking its edicts against the Power persevering. This, Mr. Canning says, he considered (although he did not so insist upon it in the recapitulation of his instructions to Mr. Erskine) as comprehending what I thought he had represented the actual suggestion to be, and what he supposed I had said to him in an informal conversation, at his house in Bruton street, on the 22d of January, in an answer to one of his inquiries.

It will, I am sure, occur to you, as the fact is, that the little which I may have thrown out upon that occasion did not look to the admission of Mr. Canning's object into any stipulation between the two countries, and that I viewed it only as a consequence that might, and would, if France persisted in her unjust decrees, grow out of arrangements similar to those offered by us in August last.

Having no longer any authority (as Mr. Canning knew) to speak officially upon that, or any other point connected with the Orders in Council, and being desirous that this Government should propose negotiation at Washington, as well concerning the orders as the affair of the Chesapeake, I avoided, as much as possible, explanations upon details which would be best managed at home by the Department of State; and endeavored to speak upon what Mr. Canning proposed to me, in such a manner as, that, without justifying unsuitable expectations on his part, or forgetting what was due to the honor of my own Government, I might contribute to produce an effort here towards friendly adjustment.

Extract of a letter from Mr. Pinkney to Mr. Smith.

LONDON, June 9, 1809.

Mr. Erskine's instructions concerning the Orders in Council having been laid before the

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House of Commons, are now printed. You will find them in the newspaper enclosed.

It is not improbable that when Mr. Canning read these instructions to me, I inferred from the manner in which the three points stated in the fifth, sixth, and seventh paragraphs are introduced and connected, that they were all considered as suggested by Mr. Erskine's "report of his conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith:" whether I was led by any other cause into the mistake of supposing that the third (as well as the first and second) was so suggested, I am not sure, and it is not very material.

Mr. Canning's misconception of some informal observations from me in January last, has been in part mentioned in my letter of the sixth instant; but the published instructions show, what I had not collected from hearing them read, that he understood me to have stated "that the American Government was itself aware that without an enforcement, by the naval power of Great Britain, of the regulations of America with respect to France, those regulations must be altogether nugatory." It cannot be necessary to inform you that, in this, as in the other particulars alluded to in my last letter, I have been misapprehended.

I ought to mention that the strong and direct charge against the American Government, of "manifest partiality" to France, introduced, without any qualification or management of expression, into a paper which Mr. Erskine was authorized to communicate *in extenso* to you, did not strike me when that paper was read to me by Mr. Canning.

Extract of a letter from Mr. Pinkney to the Secretary of State.

JUNE 23, 1809.

I had an interview yesterday with Mr. Canning. In conversing upon the first of the conditions, upon the obtaining of which Mr. Erskine was to promise the repeal of the British Orders in Council, and a special mission, I collected, from what was said by Mr. Canning, that the exemption of Holland from the effect of our embargo and non-intercourse, would not have been much objected to by the British Government if the Government of the United States had been willing to concede the first condition subject to that exemption. Mr. Canning observed that the expedient of an actual blockade of Holland had occurred to them as being capable of meeting this exemption, but Mr. Erskine had obtained no pledge, express or implied, or in any form, that we would enforce our non-intercourse system against France and her dependencies; that our actual system would, if not re-enacted or continued as to France, terminate with the present session of Congress; that, for aught that appeared to the contrary in your correspondence with Mr. Erskine, or in the President's proclamation, the embargo and non-intercourse laws might be suffered without any breach of faith to expire, or might even be re-

pealed immediately, notwithstanding the perseverance of France in her Berlin and other edicts; and that Mr. Erskine had in truth secured nothing more, as the consideration of the recall of the Orders in Council, than the renewal of American intercourse with Great Britain.

Upon the second of the conditions mentioned in Mr. Erskine's instructions, I made several remarks. I stated that it had no necessary connexion with the principal subject; that it had lost its importance to Great Britain by the reduction of almost all the colonies of her enemies; that Batavia was understood not to be affected by it; that it could not apply to Guadaloupe, (the only other unconquered colony,) since it was admitted that we were not excluded from a trade with Guadaloupe in time of peace; that I did not know what the Government of the United States would, upon sufficient inducements, consent to do upon this point, but that it could scarcely be expected to give the implied sanction, which this condition called upon it to give, to the rule of the war of 1756, without any equivalent or reciprocal stipulation whatsoever. Mr. Canning admitted that the second condition had no necessary connexion with the Orders in Council, and he intimated that they would have been content to leave the subject of it to future discussion and arrangement. He added that this condition was inserted in Mr. Erskine's instructions, because it had appeared, from his own report of conversations with official persons at Washington, that there would be no difficulty in agreeing to it.

Upon the third condition I said a very few words. I restated what I had thrown out upon the matter of it in an informal conversation in January, and expressed my regret that it should have been misapprehended. Mr. Canning immediately said that he was himself of opinion that the idea upon which that condition turns could not well find its way into a stipulation; that he had, nevertheless, believed it proper to propose the condition to the United States; that he should have been satisfied with the rejection of it; and that the consequence would have been, that they should have intercepted the commerce to which it referred, if any such commerce should be attempted.

Circular.

TREASURY DEPARTMENT, Aug. 9, 1809.

SIR: You will herewith receive a copy of the proclamation of the President of the United States, announcing that certain British Orders in Council were not withdrawn on the tenth day of June last; and, consequently, that the trade renewable on the event of the said orders being withdrawn is to be considered as under the operation of the several acts by which such trade was suspended.

The act "to amend and continue in force certain parts of the act, entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France, and their

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dependencies, and for other purposes," passed on the 28th of June, is, therefore, in every respect, applicable to Great Britain and her dependencies as well as to France and her dependencies, anything in my circular of the 29th June last to the contrary notwithstanding.

It results that, from the receipt of this, you must, in every instance, except as hereinafter expressed, refuse clearances for British ports, requiring, as usual, bonds from all vessels bound to permitted ports, in the manner provided by the third section of the act above mentioned. But as many British vessels have or may come into the ports of the United States in consequence of the President's proclamation of the 19th of April last, he directs that you will permit such British vessels to depart without giving bond, either in ballast or with the cargo on board, when notified of the enclosed proclamation; it being, however, understood that this indulgence shall not be extended to any other vessels than such as are now in the ports of the United States, or such as may hereafter arrive, having sailed from a foreign port before information of the enclosed proclamation shall have been received at such port.

The President also directs that, until a decision from Congress on that unexpected point shall have been obtained, or until otherwise instructed, seizures or prosecutions for supposed contraventions of either of the abovementioned act, or of the non-intercourse act of 1st March last, arising from acts which would, in conformity with the proclamation of the 19th April last, have been considered as lawful, shall be suspended in the following cases, viz:

1. All vessels which have entered a British port since the 10th of June last, or which may hereafter enter such port, having sailed for the same before information of the enclosed proclamation had been received at the port of departure, so far as relates to any forfeiture or penalty which may accrue, or have accrued, by reason of their having thus entered a British port.

2. All vessels which may have arrived, either from British ports or with merchandise, in the United States, subsequent to the 10th of June last, and, also, all vessels which may hereafter thus arrive, having sailed for the United before information of the enclosed proclamation shall have been received at the port of departure, so far as relates to any forfeiture or penalty accruing from having arrived or arriving in the United States from British ports or with British merchandise.

3. All vessels now owned by citizens of the United States, and sailing under the American flag, which, being in a foreign port at the time when the enclosed proclamation will be made known at such port, shall with all due diligence depart therefrom, and return without delay to the United States, so far as relates to any forfeiture or penalty accruing from their arriving in the United States from British ports or with British merchandise.

In the above-mentioned cases of vessels arriving in the United States, and which are for the pres-

ent exempted from seizure, the vessels and cargoes may be admitted to entry.

The time when the enclosed proclamation shall have been known at the ports of departure, respectively, must be ascertained by the best means in your power; and you may refer doubtful cases to this department.

Application may of course still be made in all cases for an absolute remission of the forfeitures and penalties in the manner provided by law; the instruction herein given, to abstain from prosecutions and seizures in the above-mentioned cases being only intended to prevent the expenses and inconvenience to which the parties concerned would otherwise be exposed.

I am, respectfully, sir, your obedient servant.

ALBERT GALLATIN.

The COLLECTOR of

By the President of the United States of America.

A PROCLAMATION.

Whereas, in consequence of a communication from His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, declaring that the British Orders of Council of January and November, 1807, would have been withdrawn on the 10th day of June last; and by virtue of authority given, in such event, by the eleventh section of the act of Congress, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," I, JAMES MADISON, President of the United States, did issue my proclamation bearing date on the 19th of April last, declaring that the Orders in Council aforesaid would have been so withdrawn on the said 10th day of June, after which the trade suspended by certain acts of Congress might be renewed; and whereas it is now officially made known to me that the said Orders in Council have not been withdrawn agreeably to the communication and declaration aforesaid: I do hereby proclaim the same, and, consequently, that the trade renewable on the event of the said orders being withdrawn, is to be considered as under the operation of the several acts by which such trade was suspended.

Given under my hand and the seal of the United States, at the City of Washington, the ninth day of August, in the year of our Lord one thousand eight hundred and nine, and of the independence of the said United States the thirty-fourth.

JAMES MADISON.

By the President:

R. SMITH, *Secretary of State.*

No. 2.

The Secretary of State, to Mr. Erskine.

DEPARTMENT OF STATE, Aug. 9, 1809.

SIR: I have just received from Mr. Pinkney a letter, enclosing a printed paper, purporting to be a copy of a despatch to you from Mr. Canning,

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which states, among other things, that, from the report of your conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith, it appears:

"1st. That the American Government is prepared, in the event of His Majesty's consenting to withdraw the Orders in Council of January and November, 1807, to withdraw, contemporaneously, on his part, the interdiction of its harbors to ships of war, and all non-intercourse and non-importation acts, so far as respects Great Britain, leaving them in force with respect to France, and the Powers which adopt or act under her decrees.

"2d. That America is willing to renounce during the present war, the pretension of carrying on, in time of war, all trade with the enemy's colonies, from which she was excluded during peace.

"3d. Great Britain, for the purpose of securing the operation of the embargo, and the *bona fide* intention of America to prevent her citizens from trading with France, and the Powers adopting and acting under the French decrees, is to be considered as being at liberty to capture all such American vessels as may be found attempting to trade with the ports of any of these Powers; without which security for the observance of the embargo, the raising it nominally with respect to Great Britain alone would, in fact, raise it with respect to all the world."

I have the honor to request you to favor me with such explanations as your candor will at once suggest, in relation to these imputed conversations.

I forbear to express to you, sir, the surprise that is felt at the extraordinary pretensions set forth in this letter of instruction, and especially at the expectation that this Government would, as a preliminary, recognise conditions, two of which are so manifestly irreconcilable to the dignity and interest of the United States. I, however, would remark, that, had you deemed it proper to have communicated *in extenso* this letter, it would have been impossible for the President to have perceived in its conditions, or in its spirit, that conciliatory disposition which had been professed, and which it was hoped had really existed.

I have the honor to be, &c.

R. SMITH.

Hon. D. M. ERSKINE, &c.

No. 3.

Mr. Erskine to Mr. Smith.

WASHINGTON, August 14, 1809.

SIR: I have the honor to acknowledge the receipt of your letter of the 9th instant, informing me that you had just received a letter from Mr. Pinkney, enclosing a printed paper, purporting to be a copy of a despatch to me from Mr. Canning, which states, among other things, "from the report of your conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith, it appears:

"1st. That the American Government is prepared, in the event of His Majesty's consenting to withdraw the Orders in Council of January and November, 1807, to withdraw, contemporaneously, on its part, the interdiction of its harbors to ships of war, and all non-intercourse and non-importation acts, so far as respects Great Britain, leaving them in force with respect to France, and the Powers which adopt or act under her decrees.

"2d. That America is willing to renounce, during the present war, the pretension of carrying on, in time of war, all trade with the enemy's colonies, from which she was excluded during peace.

"3d. Great Britain, for the purpose of securing the operation of the embargo, and the *bona fide* intention of America to prevent her citizens from trading with France, and the Powers adopting and acting under the French decrees, is to be considered as being at liberty to capture all such American vessels as may be found attempting to trade with the ports of any of these Powers; without which security for the observance of the embargo, the raising it nominally with respect to Great Britain alone would, in fact, raise it with respect to all the world."

The explanations which you request from me upon that subject shall be given with candor; and I will proceed, accordingly, to lay before you an abstract of the communications which I made to His Majesty's Government relative to the unofficial conversations which I had held with Mr. Madison, (then Secretary of State,) Mr. Gallatin, and yourself, at the time and upon the occasion alluded to by His Majesty's Secretary of State, (Mr. Canning,) in that part of his instructions to me, of which you inform me you have received a printed copy from Mr. Pinkney.

Upon referring to my despatches, addressed to His Majesty's Government, of the 3d and 4th of December last, in which these communications are detailed, I conclude that the conversations alluded to must have been held some days previous to that period, and were to the following effect:

Mr. Madison (then Secretary of State) is represented by me to have urged various arguments, tending to prove that the United States had exerted all their efforts to persuade the French Government to withdraw their unjust restrictions upon neutral commerce, and that recourse might have been had to measures of more activity and decision against France than mere remonstrances, but that, in the meantime, Great Britain had issued her Orders in Council before it was known whether the United States would acquiesce in the aggressions of France, and thereby rendered it impossible to distinguish between the conduct of the two belligerents, who had equally committed aggressions against the United States.

After some other observations, Mr. Madison is stated by me, at that time, to have added, that, as the world must be convinced that America had in vain taken all the means in her power to obtain from Great Britain and France a just atten-

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tion to her rights as a neutral Power, by representations and remonstrances, she would be fully justified in having recourse to hostilities with either belligerent, and that she only hesitated to do so from the difficulty of contending with both; but that she must be driven even to endeavor to maintain her rights against the two greatest Powers in the world, unless either of them should relax their restrictions upon neutral commerce; in which case, the United States would at once side with that Power against the other which might continue its aggressions.

That every opinion which he entertained respecting the best interests of his country led him to wish that a good understanding should take place between Great Britain and the United States, and that he thought that the obvious advantages which would thereby result to both countries were a sufficient pledge of the sincerity of his sentiments.

These observations, sir, I beg leave to remark, were made to me by Mr. Madison about a month after the intelligence had been received in this country of the rejection by His Majesty's Government of the proposition made through Mr. Pinkney by the President for the removal of the embargo, as respects Great Britain, upon condition that the Orders in Council should be withdrawn, as respected the United States; and his sentiments were, as I conceived, expressed to me, in order that I might convey them to His Majesty's Government, so as to lead to a reconsideration of the proposition above mentioned, with a view to the adjustment of the differences upon that subject between the respective countries. But I never considered that Mr. Madison meant that the Government of the United States would pledge themselves beyond the proposition respecting the embargo, as above stated, because that was the extent of the power of the President by the Constitution of the United States.

I understood, very distinctly, that the observations of the Secretary of State were intended to convey an opinion as to what ought and would be the course pursued by the United States in the event of His Majesty's Orders in Council being withdrawn.

In these sentiments and opinions you concurred, as I collected from the tenor of several conversations which I held with you at that period.

With respect to the second point, as stated in your letter to be contained in a "despatch from Mr. Canning," I beg leave to offer the following explanation:

In the course of a private interview I had with Mr. Gallatin, the Secretary of the Treasury, he intimated that the non-intercourse law which was then likely to be passed by the Congress, might be considered as removing two very important grounds of difference with Great Britain, viz: the non-importation act, as applicable to her alone, and also the President's proclamation, whereby the ships of Great Britain were excluded from the ports of the United States, while those of France were permitted to enter;

but that, by the non-intercourse law, both Powers were placed on the same footing. He did not pretend to say that this measure had been taken from any motives of concession to Great Britain; but as, in fact, those consequences followed, he conceived they might be considered as removing the two great obstacles to a conciliation.

He adverted also to the probability of an adjustment of another important point in dispute between the two countries, as he said he knew that it was intended by the United States to abandon the attempt to carry on a trade with the colonies of the belligerents in time of war, which was not allowed in time of peace, and to trust to their being permitted by the French to carry on such trade in peace, so as to entitle them to a continuance of it in time of war.

As it may be very material to ascertain what "trade with the colonies of belligerents" was, in my conception, meant by Mr. Gallatin as intended to be abandoned by the United States, I feel no hesitation in declaring that I supposed he alluded to the trade from the colonies of belligerents *direct* to their mother country, or to the ports of other belligerents, because the right to such trade had been the point in dispute; whereas, the right to carry on a trade from the colonies of belligerents to the United States had never been called in question, and had been recognised by His Majesty's Supreme Court of Admiralty; and the terms even upon which such colonial produce might be re-exported from the United States, had been formally arranged in a treaty signed in London by the Ministers Plenipotentiary of both countries, which was not, indeed, ratified by the President of the United States, but was not objected to as to that article of it which settled the terms upon which such trade was to be permitted.

Such was the substance, sir, of the unofficial conversations which I had held with Mr. Madison, Mr. Gallatin, and yourself, which I did not consider, or represent to His Majesty's Government, as intended with any other view than to endeavor to bring about the repeal of the Orders in Council, by showing that many of the obstacles which had stood in the way of an amicable adjustment of the differences between the two countries were already removed, and that a fair prospect existed of settling what remained; since the United States exhibited a determination to resist the unjust aggressions upon her neutral rights, which was all that Great Britain had ever required; but I certainly never received any assurances from the American Government that they would pledge themselves to adopt the conditions specified in Mr. Canning's instructions as preliminaries; nor did I ever hold out such an expectation to His Majesty's Government, having always stated to them that, in the event of His Majesty thinking it just or expedient to cause his Orders in Council to be withdrawn, the President would take off the embargo as respected England, leaving it in operation against France, and the Powers which adopted or acted under her decrees, according to the authority which

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was vested in him at that time by the Congress of the United States; and that there was every reason to expect that a satisfactory arrangement might be made upon the points of the colonial trade, which had been so long in dispute between the two countries.

As to the third condition referred to by you, specified in Mr. Canning's instructions, I have only to remark, that I never held any conversation with the members of the Government of the United States relative to it until my late negotiation, or had ever mentioned the subject to His Majesty's Government; it having, for the first time, been presented to my consideration in Mr. Canning's despatch to me of the 23d of January, in which that idea is suggested, and is stated to have been assented to by Mr. Pinkney.

It would be unavailing at the present moment to enter upon an examination of the "pretensions set forth in Mr. Canning's letter of instructions," which you are pleased to term "extraordinary."

I consider it, however, to be my duty to declare that, during my negotiation with you, which led to the conclusion of the provisional agreement, I found no reason to believe that any difficulties would occur in the accomplishment of the two former conditions, as far as it was in the power of the President of the United States to accede to the first, and consistently with the explanation which I have before given of the second point; on the contrary, I received assurances, through you, that the President would comply (as far as it was in his power) with the first condition, and that there could be no doubt that the Congress would think it incumbent upon them to assert the rights of the United States against such Powers as should adopt or act under the decrees of France, as soon as their actual conduct or determination upon that subject could be ascertained; but that, in the meantime, that the President had not the power, and could not undertake to pledge himself in the formal manner required to that effect.

I received, also, assurances from you that no doubt could be reasonably entertained that a satisfactory arrangement might be made in a treaty upon the subject of the second condition mentioned in Mr. Canning's instructions, according to my explanation of it in the foregoing part of this letter; but that it necessarily would form an article of a treaty, in which the various pretensions of the two countries should be settled.

The third condition you certainly very distinctly informed me could not be recognised by the President, but you added, what had great weight in my mind, that you did not see why any great importance should be attached to such a recognition; because it would be impossible that a citizen of the United States could prefer a complaint to his Government, on account of the capture of his vessel, while engaged in a trade absolutely interdicted by the laws of his country.

Under these circumstances, therefore, finding that I could not obtain the recognitions specified in Mr. Canning's despatch of the 23d of January,

(which formed but *one part* of his instructions to me,) in the formal manner required, I considered that it would be in vain to lay before the Government of the United States the despatch in question, which I was at *liberty* to have done *in extenso*, had I thought proper. But as I had such strong grounds for believing that the object of His Majesty's Government could be attained, though in a different manner, and the spirit, at least, of my several letters of instructions be fully complied with, I felt a thorough conviction upon my mind that I should be acting in conformity with His Majesty's wishes; and, accordingly concluded the late provisional agreement, on His Majesty's behalf, with the Government of the United States.

The disavowal, by His Majesty, is a painful proof to me that I had formed an erroneous judgment of His Majesty's views, and the intention of my instructions; and I have most severely to lament that an act of mine (though unintentionally) should produce any embarrassment in the relations between the two countries.

It is a great consolation to me, however, to perceive that measures have been adopted by both Governments to prevent any losses, and to obviate any inconveniences which might have arisen to the citizens or subjects of either country from a reliance on the fulfilment of that provisional agreement; and I cannot but cherish a hope that a complete and cordial understanding between the two countries may be effected.

I beg leave to add, that it would have given me great happiness to have contributed to so desirable an object, and to offer you the assurances of the great respect and high consideration with which I remain, sir, your obedient servant,

D. M. ERSKINE.

HON. ROBERT SMITH.

No. 4.

The Secretary of State to Mr. Erskine.

WASHINGTON, Aug. 13, 1809.

SIR: I do not believe that, in the conversations we have had respecting the practicability of an adjustment of the differences between the United States and Great Britain, we ever have misunderstood one another. Yet as, from Mr. Canning's instructions, lately published by your Government, it would seem that some opinions are ascribed to several members of this Administration which they did not entertain, it appears necessary to ascertain whether on any point a misapprehension can have taken place.

I will forbear making any observations on what, in the instructions, is called the third condition, since it is not asserted that that inadmissible proposition was suggested at Washington.

The points embraced in Mr. Canning's first proposition formed the principal topic of our conversations relative to a revocation of the Orders in Council. Yet, in the manner in which that proposition is expressed, it goes further than had been suggested by the members of this Administration. It is sufficiently evident, from the

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proceedings of Congress, both previous and subsequent to the unratified agreement of April last, that the United States intended to continue the restrictions on the commercial intercourse with France, while such of her decrees as violated our neutral rights continued in force, and to remove those restrictions, in relation to Great Britain, in the event of a revocation of the Orders in Council. But that state of things, so far as it related to France, was to result from our own laws, known or anticipated by your Government when they authorized an arrangement; and it was not proposed by us that the continuance of the non-intercourse with France should be made a condition of that arrangement. While on that subject, I will add an observation, though, perhaps, not immediately connected with the object of this letter. I think that the object of that proposition, so far as it agreed with your previous understanding of the intentions of this Government, has been substantially carried into effect on our part. It is true that your Government might at the date of the instructions have expected, from the incipient proceedings of Congress, that Holland would be embraced by the restrictive laws of the United States. Not only, however, was the omission nominal, since American vessels were at the time, by the decrees of that country, refused admission into its ports; but, under the same construction of our laws, by which the commercial intercourse with Holland was permitted, that with Portugal was also considered as legal, in the event of that country being occupied by British troops, in the name of the Prince Regent.

It is, therefore, principally as respects the second condition, which relates to the colonial trade, that erroneous inferences might be drawn from the expressions used in Mr. Canning's instructions. Although the subject must have been mentioned here incidentally, and only in a transient manner, as it is one to which I had paid particular attention, and on which my opinion had never varied, I think that I can state with precision in what view I have always considered it, and must have alluded to it.

1st. I never could have given countenance to an opinion that the United States would agree, or that it would be proper, to make any arrangement whatever with respect to the colonial trade, a condition of the revocation of the Orders in Council. The two subjects were altogether unconnected, and I am confident that such a proposition was never suggested either by you or by any member of this Administration. Such an arrangement could be effected only by treaty; and it is with a considerable degree of surprise that I see your Government now asking, not only resistance to the French decrees, but the abandonment of a branch of our commerce, as the price of the revocation of the Orders in Council. This seems to give a new character to a measure which had heretofore been represented as an act of retaliation reluctantly adopted, and had been defended solely on the ground of a supposed acquiescence on the part of the United States in the injurious decrees of another nation.

2d. In the event of a treaty embracing all the points in dispute, and particularly that of impressments, without which, I trust, no treaty will ever take place, it was my opinion, and I may certainly have expressed it, that if the other subjects of difference were arranged, that respecting the colonial trade would be easily adjusted. I had considered the principles recognised in a former correspondence between Lord Hawkesbury and Mr. King, on the subject of the colonial trade, and, subsequently, again adopted in the treaty negotiated by Messrs. Monroe and Pinkney, as a general basis agreed on under different Administrations by both Governments, from which neither could now recede, and susceptible only of modifications as to details. The instructions to our Ministers in London on that subject had also been published, and were known to your Government. I therefore believed, that the United States, in the event of a treaty, would still be disposed to waive for the present, in the manner and on the terms contemplated by those instructions, their right to that branch, and to that branch only, of the colonial trade, known by the name of direct trade, that is to say, the trade carried directly from belligerent colonies to the belligerents in Europe, when that trade was not permanently, in peace as in war, permitted by the laws of the country to which these colonies belonged. The right to a trade between such colonies and the United States generally, and to that in colonial articles between the United States and other countries, never can, nor will, in my opinion, be abandoned, or its exercise be suspended, by this Government. On the contrary, it is solely in order to secure, by an express treaty stipulation, that trade against the danger of interruption, and thus, by a mutual spirit of accommodation, to avoid collisions, that the abandonment of the direct branch can ever be assented to.

Permit me, therefore, to request, that you will inform me whether you understood me on those two points, as I certainly meant to be understood; namely, that the relinquishment, during the present war, of what is called the direct trade, was alone contemplated; and that no arrangement on that subject was suggested as a condition of the revocation of the Orders in Council.

I have the honor to be, with the highest respect and consideration, sir, your obedient servant,

ALBERT GALLATIN.

Hon. D. M. ERSKINE, Minister, &c.

No. 5.

Mr. Erskine to Mr. Gallatin.

WASHINGTON, Aug. 15, 1809.

SIR: I have the honor to acknowledge the receipt of your letter of the 13th instant, in which you have been pleased to say, that although you "do not believe that in the conversations we have had respecting the practicability of an adjustment of the differences between the United States and Great Britain, we ever have misunderstood one another; yet as, from Mr. Canning's

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instructions, lately published by my Government, it would seem that some opinions are ascribed to several members of this Administration which they did not entertain, it appears necessary to ascertain whether, on any point, a misapprehension can have taken place."

In answer to your inquiries, I have great satisfaction in assuring you that there appears to have been no misunderstanding respecting the substance or meaning of the conversations which passed between us, as stated in Mr. Canning's instructions alluded to.

After the most careful perusal of your statement of the purport of our conversations, I cannot discover any material difference from the representation which I have made upon that subject to the Secretary of State, (Mr. Rob't Smith,) in my letter to him of the 16th instant, to which I will, therefore, beg to refer you, as I have therein detailed the substance of the conversation according to my recollection of it; which is, in every respect, essentially the same as that which you seem to have entertained.

During the conversation which we held, respecting the practicability of an amicable adjustment of the differences between the two countries, when the relinquishment, by the United States, during the present war, of what is called the colonial trade, was suggested by you, I conceived that you meant (as you have stated) "the trade carried directly from belligerent colonies to the belligerents in Europe, when that trade was not permanently, in peace as in war, permitted by the laws of the country to which those colonies belonged."

I never supposed that you intended to convey an opinion that the Government of the United States would make any arrangement respecting the colonial trade, as a condition of the revocation of the Orders in Council, the two subjects being altogether unconnected, nor have I ever represented to His Majesty's Government that such preliminary pledges would be given.

With sentiments of the highest respect, I have the honor to be, sir, your most obedient humble servant,

D. M. ERSKINE.

Hon. A. GALLATIN, &c.

No. 6.

The Secretary of State to Mr. Jackson.

DEPARTMENT OF STATE,
October 9, 1809.

SIR: An arrangement as to the revocation of the British Orders in Council, as well as to the satisfaction required in the case of the attack on the Chesapeake frigate, has been made in due form by the Government of the United States, with David Montague Erskine, Esq., an accredited Minister Plenipotentiary of His Britannic Majesty. And after it had been faithfully carried into execution on the part of this Government, and under circumstances rendering its effects on the relative situation of the United States irrevocable, and, in some respects, irreparable. His

Britannic Majesty has deemed it proper to disavow it, to recall his Minister, and to send another to take his place.

In such a state of things, no expectation could be more reasonable, no course of proceeding more obviously prescribed by the ordinary respect due to the disappointed party, than a prompt and explicit explanation by the new functionary of the grounds of the refusal, on the part of his Government, to abide by an arrangement so solemnly made, accompanied by a substitution of other propositions.

Under the influence of this reasonable expectation, the President has learned, with no less surprise than regret, that in your several conferences with me you have stated:

1st. That you have no instructions from your Government which authorize you to make any explanations whatever to this Government as to the reasons which had induced His Britannic Majesty to disavow the arrangement lately made by your predecessor; and that, therefore, you could not make any such explanations.

2d. That, in the case of the Chesapeake, your instructions only authorize you (without assigning any reason whatever why the reasonable terms of satisfaction tendered and accepted have not been carried into effect) to communicate to this Government, a note tendering satisfaction, with an understanding that such note should not be signed and delivered by you, until you should have previously seen and approved the proposed answer of this Government, and that the signing and the delivery of your note, and of the answer of this Government, should be simultaneous.

3d. That you have no instructions which authorize you to make to this Government any propositions whatever in relation to the revocation of the British Orders in Council, but only to receive such as this Government may deem it proper to make to you.

4th. That, at all events, it is not the disposition or the intention of the British Government to revoke their Orders in Council, as they respect the United States, but upon a formal stipulation, on the part of the United States, to accede to the following terms and conditions, viz:

1st. That the act of Congress, commonly called the non-intercourse law, be continued against France so long as she shall continue her decrees.

2d. That the navy of Great Britain be authorized to aid in enforcing the provisions of the said act of Congress.

3d. That the United States shall explicitly renounce, during the present war, the right of carrying on any trade whatever, direct or indirect, with any colony of any enemy of Great Britain, from which they were excluded during peace; and that this renunciation must extend, not only to the trade between the colony and the mother country, but to the trade between the colony and the United States.

If, in the foregoing representation, it should appear that I have, in any instance, misapprehended your meaning, it will afford me real pleasure to be enabled to lay before the President a

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statement corrected agreeably to any suggestions with which you may be pleased to favor me.

To avoid the misconceptions incident to oral proceedings, I have also the honor to intimate, that it is thought expedient that our further discussions, on the present occasion, be in the written form. And, with great sincerity, I assure you, that whatever communications you may be pleased thus to make, will be received with an anxious solicitude to find them such as may lead to a speedy removal of every existing obstacle to that mutual and lasting friendship and cordiality between the two nations, which it is obviously the interest of both to foster. I have the honor to be, &c.

R. SMITH.

Hon. F. J. JACKSON, &c.

No. 7.

Mr. Jackson to Mr. Smith.

WASHINGTON, Oct. 11, 1809.

SIR: I have had the honor of receiving your official letter of the 9th inst., toward the close of which you inform me, that it had been thought expedient to put an end to all verbal communication between yourself and me, in discussing the important objects of my mission. Considering that a very few days have elapsed since I delivered to the President a credential letter from the King my master, and that nothing has been even alleged to have occurred to deprive me of the facility of access, and of the credit to which, according to immemorial usage, I am by that letter entitled, I believe there does not exist in the annals of diplomacy a precedent for such a determination between two Ministers who have met for the avowed purpose of terminating amicably the existing differences between their respective countries; but, after mature reflection, I am induced to acquiesce in it, by the recollection of the time that must necessarily elapse before I can receive His Majesty's commands upon so unexpected an occurrence, and of the detriment that would ensue to the public service, if my Ministerial functions were, in the interval, to be altogether suspended. I shall, therefore, content myself with entering my protest against a proceeding which I can consider in no other light than as a violation, in my person, of the most essential rights of a public Minister, when adopted, as in the present case, without any alleged misconduct on his part. As a matter of opinion I cannot, I own, assent to the preference which you give to written over verbal intercourse for the purpose of mutual explanation and accommodation. I have thought it due to the public character with which I have the honor to be invested, and to the confidence which His Majesty has most graciously been pleased to repose in me, to state to you unreservedly my sentiments on this point. I shall now proceed to the other parts of your letter, and apply to them the best consideration that can arise from a zeal proportioned to the increase of difficulty thus thrown in the way of the restoration of a thorough good understanding between our respective countries.

You state, sir, very truly, that an arrangement had been made between you and Mr. Erskine, and that His Majesty had thought proper to disavow that arrangement.

I have here, in the outset, to regret the loss of the advantage of verbal intercourse with you, as I should have availed myself of it to inquire whether, by your statement, it was your intention to complain of the disavowal itself, or of a total want of explanation of it, or of the circumstance of that explanation not having been made through me. I observe, that, in the records of this mission, there is no trace of a complaint, on the part of the United States, of His Majesty having disavowed the act of his Minister. You have not, in the conferences we have hitherto held, distinctly announced any such complaint, and I have seen with pleasure, in this forbearance on your part, an instance of that candor, which, I doubt not, will prevail in all our communications, inasmuch as you could not but have thought it unreasonable to complain of the disavowal of an act done under such circumstances as could only lead to the consequences that have actually followed.

It was not known, when I left England, whether Mr. Erskine had, according to the liberty allowed him, communicated to you *in extenso* his original instructions. It now appears that he did not. But, in reverting to his official correspondence, and particularly to a despatch addressed, on the 20th of April, to his Majesty's Secretary of State for Foreign Affairs, I find that he there states that he had submitted to your consideration the three conditions specified in those instructions as the groundwork of an arrangement, which, according to information received from this country, it was thought in England might be made with a prospect of great mutual advantage. Mr. Erskine then reports *verbatim et seriatim* your observations upon each of the three conditions, and the reasons which induced you to think that others might be substituted in lieu of them. It may have been concluded between you that these latter were an equivalent for the original conditions; but the very act of substitution evidently shows that those original conditions were, in fact, very explicitly communicated to you, and by you, of course, laid before the President for his consideration. I need hardly add, that the difference between these conditions and those contained in the arrangement of the 18th and 19th of April, is sufficiently obvious to require no elucidation; nor need I draw the conclusion, which I consider as admitted by all absence of complaint, on the part of the American Government, viz: that, under such circumstances, His Majesty had an undoubted and incontrovertible right to disavow the act of his Minister. I must here allude to a supposition, which you have more than once mentioned to me, and by which, if it had any the slightest foundation, this right might, perhaps, have been in some degree affected. You have informed me that you understood that Mr. Erskine had two sets of instructions by which to regulate his

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conduct; and that upon one of them, which had not been communicated either to you or to the public, was to be rested the justification of the terms finally agreed upon between you and him. It is my duty, sir, solemnly to declare to you, and through you to the President, that the despatch from Mr. Canning to Mr. Erskine, which you have made the basis of an official correspondence with the latter Minister, and which was read by the former to the American Minister in London, is the only despatch by which the conditions were prescribed to Mr. Erskine, for the conclusion of an arrangement with this country on the matter to which it relates.

To return to the immediate subject of your letter. If, sir, it be your intention to state, that no explanation whatever has been given to the American Government of the reasons which induced His Majesty to disavow the act of my predecessor, I must, in that case, observe, that, in the instructions conveying to him His Majesty's intention, those reasons were very fully and forcibly stated; and if he has not transmitted them to you, I can only attribute it to the peculiar delicacy and embarrassment of his situation, for which he probably trusted to the President's goodness to make some allowance; and he might the more reasonably be led to that reliance on it, as a full and ample communication was also made upon the subject by His Majesty's Secretary of State for Foreign Affairs to Mr. Pinkney, to whom the whole of Mr. Erskine's original instruction was read, and who, it was natural to suppose, would convey to his Government so much information upon a very momentous occasion, as would relieve Mr. Erskine from the necessity of entering into minute details of the misunderstanding that had occurred. At all events, no complaint can be substantiated against His Majesty's Government on this score, seeing that they not only instructed the Minister who had made the disavowed arrangement as to the motives which occasioned the disavowal, but also with frankness, promptitude, and a most scrupulous regard to national honor, gave notice to the American Minister in London of the disavowal of the motives of it, and of the precautions spontaneously taken by His Majesty to prevent any loss or injury accruing to the citizens of the United States from a reliance on any agreement, however unauthorized, made in His Majesty's name. The mere allusion to this latter circumstance dispenses me from further noticing the effects which you describe as being produced upon the United States by the circumstances of this agreement. How far they are irrevocable is not for me to determine; but the word *irreparable* seems to imply that a loss had been sustained on the occasion by the public, or by the individuals of this country. So far as His Majesty could be, by possibility, supposed answerable for such an eventual loss, he has, as I have before stated, taken the utmost precautions to avert it.

As to the expectation entertained here, that the explanation of His Majesty's share in this transaction should be made through me, I might

content myself with simply observing, that I was not provided with instructions to that effect, because it was known that the explanation in question had already been given. But it accords with the sentiments of His Majesty towards this country, to observe, also, that he considered that, as some time must necessarily elapse between my appointment and my entrance on the duties of my ministry, it would be a more friendly mode of proceeding to state, without delay, and through the channels I have already mentioned, the motives that compelled His Majesty to disavow the agreement, than to leave the American Government in uncertainty in these respects, till the unavoidably protracted period of my arrival in America. I say this in regard to the original notification of His Majesty's determination, and of the motives of it, which, being already made, it could not be supposed in London that a repetition of them would be expected from me; and, of course, no such case has been foreseen in my instructions. But if, beyond this, any incidental explanation or discussion should be wished for by this Government, I came fully prepared to enter into them. I even consider them to have taken place between us. I have certainly derived great satisfaction from the several hours which we have spent in conference upon these subjects, because they have enabled me to remove some misunderstandings, and to refute many misrepresentations, which you yourself informed me of, in regard to the conduct of the British Government. I consider such mutual explanations as highly beneficial to a right understanding of the views and interests of the two countries, and I should, with much pleasure, have renewed them, if you had not informed me that the President had been pleased to prescribe another and a different mode of conducting our negotiations.

I will, nevertheless, avail myself of that mode, which he still permits, to repeat to you, that His Majesty has authorized me, notwithstanding the ungracious manner in which his former offer of satisfaction for the affair of the Chesapeake was received, to renew that which Mr. Erskine was instructed to make. You have said that you so fully understood the particulars of that offer, that I deem it unnecessary to recapitulate them here. I regret that, since they were so clearly understood by you, you should not yet have been enabled to state to me, either in our personal communications, or in the letter which I am now answering, whether they are considered by the President as satisfactory, or whether they are such as he ultimately means to accept. You seem not so distinctly to have understood the form of proceeding in this affair, which I took the liberty of suggesting as likely to lead to a satisfactory result, without, however, at all precluding any other method which might appear preferable to you. My proposal was, not to communicate a note tendering satisfaction, but to agree with you beforehand upon the terms of a declaration on the part of His Majesty, which should actually give the satisfaction, (the conditions of which I informed you that I was author-

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ized to carry into immediate execution,) and of a counter-declaration, to be signed by you on the part of the United States, for the purpose of accepting such satisfaction. I expressly stated that this interchange of official documents was not meant by me as the means of conveying to each other our respective sentiments; *that* I understood to be, as is usual, the object of our conferences; and I imagined that the papers to be signed by us, respectively, would be the result of those sentiments so communicated; and that, by being reciprocally corrected and modified, and simultaneously delivered, they would form one compact by which the two countries would be equally bound. This course of proceeding is conformable to the practice of the Courts of Europe on similar occasions. You did not, at the time, appear to object to it; you even requested me to come the next day, prepared with a draught or *projet* of a paper, framed in pursuance to these ideas; and although you desired to refer the subject to the President for his approbation, I do not find in your letter either an expression of his sentiments upon it, or the substitution of any other form that might be more agreeable to him than the one which I have proposed.

I touch, with considerable and very sincere reluctance, upon that part of your letter, in which you state that I had not assigned "any reason whatever why the reasonable terms of satisfaction, tendered and accepted, have not been carried into effect."

I believed that I had observed to you, in the words of my instructions, that if His Majesty were capable of being actuated by any desire to retract an offer of reparation which he had once made, His Majesty might be well warranted in doing so, both by the form in which his accredited Minister had tendered that reparation, and by the manner in which that tender had been received. I believe that I elucidated this observation by a reference to the particular expressions, which made the terms of satisfaction appear to be unacceptable even to the American Government, at the very moment when they were accepted, and which, at all events, put it totally out of His Majesty's power to ratify and confirm any act in which such expressions were contained.

On the subject of His Majesty's Orders in Council, I have had the honor of informing you that His Majesty, having caused to be made to the Government of the United States certain proposals founded upon principles, some of which were understood to originate in American authorities, and others to be acquiesced in by them; and having afterwards ascertained, in the manner mentioned in a former part of this letter, that the sentiments of the American Government were so different from what they were at first understood to be, I was not instructed to renew to you those proposals, nor to press upon your acceptance an arrangement which had been so recently declined, especially as the arrangement itself is become less important, and the terms of it less applicable to the state of things now existing.

These considerations, which were first intimated in Mr. Canning's official letter to Mr. Pinkney of the 23d September, 1808, and which, in the process of the following six months, acquired greater weight and influence, induced His Majesty, before the result of Mr. Erskine's negotiation was known, to modify the Orders in Council of November, 1807, by that of the 26th of April, 1809.

The effect of this new order is to relieve the system under which the former orders were issued from that which has always been represented in this country as the most objectionable and offensive part of it, the option given to neutrals to trade with the enemies of Great Britain, through British ports, on payment of a transit duty. This was originally devised and intended as a mitigation of what is certainly more correct but more rigid in principle—the total and unqualified interdiction of all trade with the enemy. If, however, this mitigation was felt as an aggravation, and, as has been sometimes warmly asserted, as an insult, that cause of complaint is now entirely removed. By the Order in Council of the 26th April, 1809, all trade with France and Holland, and the ports of Italy comprehended under the denomination of the Kingdom of Italy, is simply prohibited altogether. No option is afforded, and, consequently, no transit duty is required to be paid. In another respect, the Order in Council of the 26th April must be admitted to be more restrictive than those of November, 1807.

The trade with enemies' colonies, which was opened to neutrals at the commencement of the present war by the Order in Council of the 24th June, 1803, was continued to be left open by those of November, 1807. The Order in Council of the 26th April retracts this indulgence. But it is to be observed, that since the period when the Orders in Council of November, 1807, were issued the opening of the ports of Spain, of Portugal, of the south of Italy, and of Turkey, has afforded a more ample scope to neutral commerce; and that, by the capture of Martinique, in addition to that of almost all the colonies of the enemies of Great Britain, together with the blockade of Guadeloupe, the extent to which the liberty of commerce with enemies' colonies applied has been so far narrowed, that there is little of practical hardship in recurring to the rule, which, however occasionally mitigated in its application, Great Britain can never cease in principle to maintain. It is further to be observed, that the Order in Council of the 26th April has this operation, highly favorable to neutrals, that, restricting the regulations of blockade to France, Holland, and their colonies, and to the territories denominated the Kingdom of Italy, it lays open to the direct trade of neutrals the ports of the north of Europe. Under the order of the 26th of April, therefore, while there are on the one hand fewer points of difference to stand in the way of a satisfactory arrangement between Great Britain and the United States, it is possible that there may be less temptation to the latter to enter into such an arrangement, as the extent of their commerce

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may be, if they please, nearly as great under the Order in Council of the 26th April as it would be under any arrangement which should effect the indispensable objects to which that order applies, or as it would be even without any such order, so long as France and the Powers subservient to France continue to enforce their decrees. It is, in the same proportion, matter of indifference to Great Britain, whether the Order in Council be continued, or an arrangement by mutual consent substituted in its room.

Such, sir, are the grounds on which it has appeared to His Majesty to be unnecessary to command me to propose to the Government of the United States any formal agreement to be substituted for that which His Majesty has been under the necessity of disavowing; but I am directed to receive and discuss with you any proposal which you may be authorized to make to me on this head.

As no disposition has hitherto been shown on your part to make any such proposal, it has been impossible for me to state, by anticipation, (nor was I instructed so to do,) what might be the answer that I should eventually think it my duty to return to you; consequently, I could not have made, with that view, the statement contained in the fourth section of your letter, and the three subdivisions of it. Such a statement would have been obviously inconsistent with the former part of my overture, which you very correctly record in the third section, viz: that I was not instructed to make to you any proposal whatever upon this subject. I must necessarily reserve, until I hear from you what proposals it may be deemed proper to make on behalf of the United States, to state in how far they do or do not accord with the instructions which it has pleased His Majesty to give for my guidance in this negotiation.

I will only add, sir, in conclusion of this letter, that His Majesty is very sincerely desirous of maintaining a perfect and cordial understanding with the United States, and of bringing to a complete and satisfactory adjustment all the points of difference that have arisen between the two Governments; and that, agreeing, as I do with you, most heartily as to the interest which both nations have in fostering a mutual and solid friendship and cordiality, no zeal or exertions shall be wanting on my part to carry into effect His Majesty's commands for this most salutary purpose.

I have the honor to be, with great respect, sir, your most obedient, humble servant,

F. J. JACKSON.

Hon. ROBERT SMITH, &c.

Mr. Smith, Secretary of State, to Mr. Jackson.

DEPARTMENT OF STATE, Oct. 19, 1809.

SIR: I have had the honor of receiving your letter of the 11th instant.

Before I proceed to the more material topics which it embraces, it is proper that I should take some notice of your construction, which has unhappily converted an intimation of the expediency

of conducting in a written form our further discussions on this particular occasion into a general prohibition of all verbal communications whatever, and into an unprecedented violation of the most essential rights of a public Minister; requiring a formal protest and a resort to the commands of your Sovereign.

A recurrence to that intimation cannot fail to show that its sole object was to avoid, in the further discussions of a case of unusual delicacy and importance, the misconceptions well known to be incident to oral proceedings, and of which the diplomatic intercourse between the two Governments had furnished so many and such serious proofs; nay, of which your letter itself is an additional illustration. That a change in diplomatic discussions from an oral to a written form is not without precedent, I cannot refer to one which will be more satisfactory to you than the intimation recently given by Mr. Canning, in the case of the proposal by Mr. Pinkney, on the subject of the Orders in Council and the embargo, that the discussions, which had been previously verbal, must thenceforth take a written form. And, with this view, I take the liberty of recalling your attention to the subjoined extracts of letters [see 'A' and 'B'] that passed on that occasion.

On the present, as on that occasion, the change from verbal to written communications was requested after two conferences, and when the subject appeared to one of the parties to have, by those verbal discussions, been brought to a point which required a precise understanding of the views and propositions of the other.

You will, sir, hence perceive, that, in maintaining the right which every Government has as to the rules of intercourse with foreign functionaries near it, no encroachment has been made or intended on any right or customary privilege belonging to you in that character, nor anything done to impede the proper and usual course of negotiation.

You have been sufficiently apprized, by my letter of the 9th, of the light in which the President views the arrangement lately made by your predecessor with this Government, and of the grounds on which he has accepted a formal and satisfactory explanation of the reasons for the refusal of His Britannic Majesty to carry it into effect. He persists in that expectation, and in the opinion that there has been given no explanation that is adequate, either as to the matter or as to the mode.

When one Government has been solemnly pledged to another in a mutual engagement by its acknowledged and competent agent, and refuses to fulfil the pledge, it is perfectly clear that it owes it both to itself and to the other party to accompany its refusal with a formal and frank disclosure of sufficient reasons for a step which, without such reasons, must deeply injure its own character, as well as the rights of the party confiding in its good faith.

"To refuse, with honor," (says a high authority on public law,) "to ratify what has been con-

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cluded on by virtue of a full power, it is necessary that the Government should have strong and solid reasons, and that he show, in particular, that his Minister has violated his instructions."

Although it is particularly incumbent on the Sovereign, in such case, to show that his instructions have been violated, yet it is not a mere violation of them on immaterial points that will be sufficient. It is indispensably requisite, moreover, that the reasons be strong and solid; that they manifestly outweigh, not only the general obligation to abide by what has been so done, but also the disappointment and injury accruing to the other party. And it is worthy of notice, that the case under discussion is of a higher character, and appeals with greater solemnity to the honor and justice of the refusing party, than the case stated in *Vattel*, inasmuch as the transaction, now disavowed, was not a treaty or convention to be ratified by both parties, previous to an execution by either. It had, according to the terms of it, (and this peculiarity appears to have been contemplated by your Government,) been actually and immediately carried into execution on the part of the United States. The refusal of His Britannic Majesty is, therefore, not simply to ratify what had been ratified by the other party, but to carry into effect on his part an arrangement which had been carried into full effect, with good faith, on the part of the United States. Nay, the case is strengthened by the further peculiarity, that some of the circumstances attending the execution of the arrangement on the part of the United States render it unsusceptible of a full equivalent for the refusal to execute it on the other side.

It has not escaped observation, that the obligation of your Government to tender explanations on this occasion is admitted by your attempt to show that it has been sufficiently done in what passed in conversation between Mr. Canning and Mr. Pinkney, and by the instructions given to Mr. Erskine to communicate such explanations.

With every disposition to view in the most favorable light whatever may affect the relations between the two countries, it is impossible to mistake the conversations of those Ministers for a discharge of such a debt to the good faith and reasonable expectations of the United States. Besides, that they were mere conversations in a case requiring the precision and respect of a formal communication, it is certain that it was neither understood by Mr. Pinkney, nor intended by Mr. Canning, that those conversations were so to be regarded. Mr. Pinkney is explicit on this point. And Mr. Canning himself, after declining to recapitulate in writing what he had verbally remarked, signified to Mr. Pinkney, in a letter dated May 27, that his observations on the subject would be more properly made through the successor of Mr. Erskine, who was about to proceed to the United States.

With respect to the instructions on this point, given to Mr. Erskine, it might be sufficient to remark that they were never carried into execution; but it may be asked, whether it was a mark

of friendly respect to the United States to employ for such a purpose a Minister, from whom his Government had thought proper publicly to withdraw its confidence, and to the peculiar delicacy and embarrassment of whose situation you have yourself referred, as accounting for his not having executed the task imposed upon him.

I must here repeat, what was suggested in my former letter, that the successor of Mr. Erskine is the proper functionary for a proper explanation. Nor can I perceive the force of your remark, that the delay incident to your arrival in the United States rendered it more consistent with the friendly sentiments of His Majesty to prefer the other channels for communicating the motives for his disavowal. To your own reconsideration I appeal, whether the course most consonant to those friendly sentiments was not the obvious one of employing the new organ, guarding, at the same time, against any misconception of the delay, by apprizing the American Government, through its Minister, of the cause of it. The supposition that the delay incident to your mission gave rise to the conversation of Mr. Canning and Mr. Pinkney, is not reconcilable to the correspondence of the latter, which contains no such indication. On the contrary, it distinctly shows that he was apprized of the intention to replace Mr. Erskine by a successor, whom he regarded as the proper channel for the explanatory communications; that he understood Mr. Canning to be under the same impression; and that he learned from yourself, not more than two days after his conversations with Mr. Canning, that you were to sail for the United States within three weeks.

Although it may not have been your intention to have given to this subject a posture which it would not have naturally assumed, yet such has been the tendency of some of your remarks, and particularly of the conclusion you have drawn from the two circumstances; 1st. That no trace of complaint from this Government against the disavowal appears in the records of the British mission, or was distinctly announced by me in our conferences; and, 2d. That, from the official correspondence of Mr. Erskine with his Government, it appears that, although he did not communicate *in extenso* his original instructions, he submitted to me the three conditions therein specified, and received my observations on each.

If there be no trace of complaint against the disavowal in the archives of the mission, it is because this Government could not have entered such complaint before the reasons for the disavowal had been explained, and especially as the explanations were justly and confidently expected through the new functionary. And as to the supposed reserve on my part on this subject, in our several conferences, I did imagine that my repeated intimations to you of the necessity of satisfactory explanations, as to the disavowal, were sufficient indication of the dissatisfaction of this Government with respect to the disavowal itself.

The stress you have laid on what you have

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been pleased to state as the substitution of the terms finally agreed on for the terms first proposed, has excited no small degree of surprise. Certain it is that your predecessor did present for my consideration the three conditions which now appear on the printed document; that he was disposed to urge them more than the nature of two of them (both palpably inadmissible, and one more than merely inadmissible) could permit; and that, on finding his first proposals unsuccessful, the more reasonable terms comprised in the arrangement respecting the Orders in Council were adopted. And what, sir, is there in this to countenance the conclusion you have drawn in favor of the right of His Britannic Majesty to disavow the proceeding? Is anything more common in public negotiations than to begin with a higher demand, and, that failing, to descend to a lower? To have, if not two sets of instructions, two or more than two grades of propositions in the same set of instructions; to begin with what is the most desirable, and to end with what is found to be admissible, in case the more desirable should not be attainable? This must be obvious to every understanding, and it is confirmed by universal experience.

What were the real and entire instructions given to your predecessor is a question essentially between him and his Government. That he had, or at least that he believed he had, sufficient authority to conclude the arrangement, his formal assurances, during our discussions, were such as to leave no room for doubt. His subsequent letter, of the 15th of June, renewing his assurance to me "that the terms of the agreement, so happily concluded by the recent negotiation, will be strictly fulfilled on the part of His Majesty," is an evident indication of what his persuasion then was as to his instructions. And with a view to show what his impressions have been, even since the disavowal, I must take the liberty of referring you to the annexed extracts [see C] from his official letters of the 31st July, and of the 14th of August.

The declaration "that the despatch from Mr. Canning to Mr. Erskine, of the 23d January, is the only despatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates," is now for the first time made to this Government. And I need hardly add, that if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it, and which were at first presented by Mr. Erskine, were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made.

As you have disclaimed any authority to offer explanations for the disavowal; as you have been willing to ascribe the want of such authority to the consideration that other channels had been preferred; and as you have even considered the circumstances under which the arrangement took place to be such as could only lead to a disavowal, and, therefore, as superseding the neces-

sity of any explanation whatever; it is to be regretted that you had not deemed it proper to render precise and explicit that part of your letter, which seems to imply that you had, in our conversations in relation to the affair of the Chesapeake, following the words of your instructions, held out not only the manner in which the reparation had been accepted, but even the form in which it had been tendered, as warranting His Majesty in even retracting the offer of reparation, and that you had elucidated the observation by a reference to the particular expressions which, at all events, put it totally out of his power to confirm any act containing them.

Whatever may have been your intention in this part of our conversation, or whatever may be the import of the passage to which I have just alluded, I have now the honor of signifying to you that I am authorized to receive in a proper form whatever explicit explanations you may choose to make with respect to the grounds of this part of the disavowal—and without inquiring whether your authority be derived from instructions that have been addressed to yourself, or that have devolved on you as the successor of the Minister, who had declined to execute them.

As you have at the same time been pleased to say that His Britannic Majesty had authorized you to renew the offer of satisfaction which Mr. Erskine was instructed to make, it was also naturally expected that you would in your letter have stated with precision in what that offer differed from the reparation solemnly tendered by Mr. Erskine, and accepted by the United States; and that you would have shown in what the reparation thus tendered differed from his instructions. And when I had the honor to intimate that, in order to avoid the misconceptions incident to oral proceedings, it was thought expedient that our further discussions on the present occasion should be in the written form, there was no part of the subject to which that intimation implied with more force than the case of the Chesapeake; none on which it was more desirable to avoid misconceptions, and to obtain a precise knowledge of the propositions which you were authorized to make; not only because I did not really understand the particulars of the offer as distinctly as you seem to have supposed, but also because, on that point, and on that alone, you had expressly stated that you had propositions to make, and that you were authorized to carry them into immediate execution.

On the subject of the Orders in Council, the President perceives, with sentiments of deep regret, that your instructions contemplate neither an explanation of the refusal of your Government to fulfil the arrangement of that branch of the existing differences, nor the substitution of any other plan of adjustment, nor any authority to conclude any agreement on that subject, but merely to receive and discuss proposals that might be made to you on the part of the United States; and these, it appears, must include a stipulation on the part of the United States to relinquish the trade with the enemies' colonies, even in branches not hith-

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erto interrupted by British orders for capture, and also a sanction to the enforcing of an act of Congress by the British navy.

Were the way properly opened for formal propositions from this Government, a known determination on the part of His Britannic Majesty to adhere to such extraordinary pretensions, would preclude the hope of success in such advances, whether regard be had to the conditions themselves, or to the disposition they indicate in return for the conciliatory temper which has been evinced by the United States.

As to the demand in relation to the colonial trade, it has been the less apprehended, as it is not in itself connected, nor has it ever before been brought into connexion, either with the case of the Orders in Council, or with that of the Chesapeake. And it was reasonably to be presumed, if the idea of such a condition had in the first instance proceeded from the erroneous belief that it was not objectionable to the United States, that it would not have been persisted in after that error had been ascertained and acknowledged.

The other demand could still less have been apprehended. Besides the inevitable and incalculable abuses incident to such a license to foreign cruisers, the stipulation would touch one of those vital principles of sovereignty which no nation ought to have been expected to impair; for, where would be the difference in principle between authorizing a foreign Government to execute, and authorizing it to make laws for us? Nor ought it to be supposed that the sanctions and precautions of a law of the United States, in the cases of the prohibited trade in question, would prove inefficacious for its purposes.

Had none of these obstacles presented themselves to the course corresponding with the sentiments and dispositions of the President, I should have felt great pleasure in giving you formal assurances of his readiness to execute the conditional authority with which he is invested for restoring, in its full extent, as far as it may depend upon the United States, the commercial intercourse of the two countries: and that he would, moreover, be disposed to extend the experiment of a friendly negotiation to every point of difference and of mutual interest between them. If, indeed, in the event of a successful termination of what relates to the case of the Chesapeake, it be thought that a removal of the difficulties arising from the Orders in Council might be facilitated by comprehending them in a general negotiation, and the operation of the orders can in the meantime be suspended, the door might be considered as immediately open to that course of proceeding.

To such a suspension no reasonable objection can be made, if, as you have stated, the Orders in Council, as now modified, leave the trade of the United States nearly as great as it would be without the existence of such orders, so long as France and the other Powers shall continue their decrees; and inasmuch as a discontinuance of their decrees, by those Powers, confessedly requires an immediate and entire revocation of the Orders in Council.

That a suspension of the orders, with a view of their being brought into a general negotiation, is more reasonable than a temporary submission to their authority by the United States, with that view, is obvious from the reflection, that such a submission would necessarily involve a relinquishment of the principle which they have steadfastly asserted; whereas, a discontinuance of the Orders in Council, in the present actual state of things, would not be incompatible with the principle on which they were originally founded.

This principle was, as you well know, the necessity of retaliating, through neutrals, injuries received through a violation of their rights by another belligerent. In the actual state of things, and under the actual modification of the Orders in Council produced by it, it is admitted by you that the orders have no practical effect in abridging the commerce of neutrals, and can of course have no retaliating effect on the other belligerents.

Although it cannot be allowed to be true that the Orders in Council are no longer injurious to the commerce of the United States, it is certainly true that they produce no degree of injury to the enemies of Great Britain that can countenance the retaliating plea alleged in support of them.

What, permit me to ask, is the degree of injury actually accruing to the enemies of Great Britain from her retaliating orders? According to those orders, as now modified, and more especially taking into view along with them the prohibitory law of this country in relation to France, the essential difference between their repeal and their existence consists in this: that, in the case of their repeal, as pledged by the arrangement of April, the trade of the United States might be carried on directly with the ports of Holland; while during their existence, as at present, it is to be carried on through the contiguous and neighboring ports.

To your own calculations, sir, I submit, whether the inconsiderable effect of this circuit on the prices in Holland, and in the countries supplied through her, can any longer sustain the plea of inflicting distress on an enemy, or palliate the injuries done to a friend by a proceeding so contrary to his sentiments of justice, and which subjects his regular commerce not only to inconvenient channels, but to all the abuses which may result from the suspicions, real or pretended, of interested cruisers. You cannot but be sensible that a perseverance, under such circumstances, in a system which cannot be explained by its avowed object, would force an explanation by some object not avowed. What object might be considered as best explaining it, is an inquiry into which I do not permit myself to enter, further than to remark that, in relation to the United States, it must be an illegitimate object.

It remains to make a few observations, which are due to the just interests of the United States, and which are invited by yours relating to the Order in Council of May last.

You seem to consider that measure as comprising the utmost precaution that was in the power of His Britannic Majesty to take, for preventing

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losses, from his disavowal of the engagement of your predecessor to citizens of the United States who had resumed their commercial pursuits on the faith of that act.

Without entering into a full view of the inadequacy of the order in that respect, I take the liberty of pointing out the following instances in which it falls essentially short of its declared intention:

1. The order does not provide for the important case of vessels returning with cargoes from the ports of Holland.

2. The exemption from interruption of vessels bound from the United States to Holland was restricted by that order to such as should have departed prior to the 20th July: at which date it is not certain that the order, which was not officially communicated until the 31st of that month, had even reached any one point of the United States. So that some vessels may have sailed between the limited date and the arrival of the order in the United States; and many from distant ports must have done so after its arrival, but before a knowledge of it had become general—all proceeding on the faith of the arrangement, yet all left by the order exposed to capture and condemnation.

3. The order does not provide for the important case of vessels which had sailed on the like faith for Dutch ports, other than those of Holland.

4. It does not include in its provisions the extensive list of vessels going indirectly from the United States, but directly from foreign ports to those of Holland, nor vessels trading entirely from foreign ports to Holland; and, in both these instances, proceeding on the faith of the arrangement professed to be respected within the defined period.

It is true, that in these last instances, the vessels were not to be captured without an attempt, after contrary warning, to proceed to those ports. But, I need not remind you that the injuries incident to the delay and to the breaking up of such voyages cannot but have been considerable, and will have resulted as manifestly from the disappointed faith in the arrangement, as in the cases specially provided for; and, consequently, with all other losses fairly resulting from the same *bona fide* confidence in that act, they will fall within the just indemnification for which the principle assumed in the order is a formal pledge.

I conclude, sir, with pressing on your candid attention that the least which the President could have looked for in consequence of the disavowal of a transaction such as was concluded by your predecessor, and carried faithfully into effect by this Government, was an explanation from yours of the disavowal, not through the Minister disavowed, but through his successor—an explanation founded on reasons strong and solid in themselves, and presented neither verbally nor vaguely, but in a form comporting with the occasion and with the respect due to the character and the good faith of the disappointed party; that it has been found, with much concern, and with not less surprise, that you are charged with no such expla-

nations; that you have apparently wished to bring the subjects, which have been formally and definitively arranged, into fresh negotiation, as if no such arrangement had taken place; that one of the cases thus slighted, viz: that of the frigate *Chesapeake*, is a case for which reparation, not denied to be due, had been previously so long withheld, or rather in which the aggression itself has been spun out to the present moment by the continued detention of the mariners, whose seizure (making a part of the hostility committed against the American frigate) must be regarded in a light analogous to a continued detention of the ship itself; that, in the other case, viz: that of the Orders in Council, you are not authorized to tender explanations for the disavowal, or to propose any new arrangement, or to conclude any agreement, but solely to receive and discuss proposals which might be made to you: not concealing, at the same time, that, to be satisfactory, they must include two conditions—both inadmissible—one altogether irrelevant to the subject, and the other requiring nothing less than a surrender of an unalienable function of the national sovereignty.

Notwithstanding these repulsive considerations, such is the disposition of the President to facilitate a final and comprehensive accommodation between the two nations, that he is ready, as I have already had the honor of signifying to you, to favor any mode of bringing about so happy an event that may be found consistent with the honor and the essential interest of the United States.

I have the honor to be, &c.

R. SMITH.

HON. F. J. JACKSON, &c.

A.—Extract of a letter from Mr. Pinkney to Mr. Canning, dated

LONDON, October 10, 1808.

At our first interview (on the 29th of June) verbal communication was not discountenanced, but commended; for, after I had made myself understood as to the purpose for which the interview had been requested, you asked if I thought of taking a more formal course, but immediately added that you presumed I did not; for, that the course I had adopted was well suited to the occasion. My reply was, in substance, that the freedom of conversation was better adapted to our subject, and more likely to conduct us to an advantageous conclusion, than the constraint and formality of written intercourse; and that I had not intended to present a note.

At the second interview, (on the 22d of July,) it did not occur to me that I had any reason to conclude, and certainly I did not conclude, that verbal communication had not continued to be acceptable, as a preparatory course; and it was not until the third interview (on the 29th July) that it was rejected as inadmissible.

B.—Extract.—Mr. Canning to Mr. Pinkney, dated
NOVEMBER 22, 1808.

It is highly probable that I did not (as you say I did not) assign to you, as the motive of the wish

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which I then expressed, my persuasion that written communications are less liable to mistake than verbal ones, because that consideration is sufficiently obvious, and because the whole course and practice of office is, in that respect, so established and invariable, that I really could not have supposed the assignment of any specific motive to be necessary to account for my requiring a written statement of your proposals previous to my returning an official answer to them.

I had taken for granted all along that such would and such must be the ultimate proceeding on your part, however you might wish to prepare the way for it by preliminary conversations.

C.—Extract of a letter from Mr. Erskine to Mr. Smith, dated

WASHINGTON, July, 31, 1809.

Neither the present time nor the occasion will afford me a favorable opportunity for explaining to you the grounds and reasons upon which I conceived I had conformed to His Majesty's wishes, and to the spirit, at least, of my instructions upon the subject; nor indeed would any vindication of my conduct (whatever I may have to offer) be of any importance, further than as it might tend to show that no intention existed on my part to practise any deception towards the Government of the United States.

From the same to the same, dated

AUGUST 14, 1809.

Under these circumstances, therefore, finding that I could not obtain the recognitions specified in Mr. Canning's despatch of the 23d of January, (which formed but one part of his instructions to me,) in the formal manner required, I considered that it would be in vain to lay before the Government of the United States the despatch in question, which I was at liberty to have done *in extenso*, had I thought proper. But as I had such strong grounds for believing that the object of His Majesty's Government could be attained, though in a different manner, and the spirit, at least, of my several letters of instructions be fully complied with, I felt a thorough conviction upon my mind that I should be acting in conformity with His Majesty's wishes; and accordingly concluded the late provisional agreement, on His Majesty's behalf, with the Government of the United States.

The disavowal by His Majesty is a painful proof to me that I had formed an erroneous judgment of His Majesty's views and the intention of my instructions; and I have most severely to lament that an act of mine, though unintentionally, should produce any embarrassment in the relations between the two countries.

No. 9.

Mr. Jackson to the Secretary of State.

WASHINGTON, October 23, 1809.

SIR: The letter which you did me the honor to address to me on the 19th instant was delivered

to me on the following day. I shall, without loss of time, transmit it to my Court, where the various and important considerations which it embraces will receive the attention due to them. In the interval I would beg leave to submit to you the following observations, as they arise out of the communications that have already occurred between us.

In fulfilling a duty which I conceive to be due to my public character, I have never suggested, nor meant to suggest, that the mode of negotiating prescribed by you on this particular occasion—an occasion selected for the purpose of removing existing differences—was otherwise objectionable, than as it appeared to me to be less calculated, than it does to you, to answer the professed purpose of our negotiation.

It was against the general principle, of debarring a foreign Minister, in the short space of one week after his arrival, and without any previous misunderstanding with him, from all personal intercourse, that I thought it right to protest. Since, however, I find by your letter that it is not intended to apply that principle to me, I will only observe that, in the case which you mention to have occurred between Mr. Canning and Mr. Pinkney, the conferences were held under an expectation, at least on the part of the former, of their leading to a written communication; whereas, in ours, I, from the beginning, stated that I had no such communication to make. There is also this essential difference between the two cases; that Mr. Pinkney was charged to convey an important proposal to His Majesty's Government, the particulars of which it might be very material to have correctly stated, whilst the object of that part of my conversation, to which you seem to attach the most importance, was to say that I was not charged to make any proposal whatever.

It could not enter into my view to withhold from you an explanation, merely because it had been already given, but because, having been so given, I could not imagine, until informed by you, that a repetition of it would be required at my hands. I am quite certain that His Majesty's Government, having complied with what was considered to be the substantial duty imposed upon it on this occasion, would, had this been foreseen, have added to the proofs of conciliatory good faith already manifested, the further complacency to the wishes of the United States, of adopting the form of communication most agreeable to them, and of giving, through me, the explanation in question. I have, therefore, no hesitation in informing you that His Majesty was pleased to disavow the agreement concluded between you and Mr. Erskine, because it was concluded in violation of that gentleman's instructions, and altogether without authority to subscribe to the terms of it. These instructions, I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were, at the time, in substance, made known to you; no stronger illustration, therefore, can be given of

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the deviation from them which occurred, than by a reference to the terms of your agreement.

Nothing can be more notorious than the frequency with which, in the course of a complicated negotiation, ministers are furnished with a gradation of conditions, on which they may be successively authorized to conclude. So common is the case which you put hypothetically, that, in acceding to the justice of your statement, I feel myself impelled to make only one observation upon it, which is, that it does not strike me as bearing upon the consideration of the unauthorized agreement concluded here, inasmuch as, in point of fact, Mr. Erskine had no such graduated instruction. You are already acquainted with that which was given, and I have had the honor of informing you that it was the only one by which the conditions on which he was to conclude were prescribed. So far from the terms which he was actually induced to accept having been contemplated in that instruction, he himself states that they were substituted by you in lieu of those originally proposed.

It may, perhaps, be satisfactory that I should say here that I most willingly subscribe, on this occasion, to the highly respectable authority which you have quoted, and I join issue with you upon the essentials which that authority requires to constitute a right to disavow the act of a public Minister.

It is not immaterial to observe on the qualification contained in the passage you have quoted, as it implies the case of a Minister concluding in virtue of a full power; to this it would suffice to answer that Mr. Erskine had no full power; and his act, consequently, does not come within the range of your quotation, although it cannot be forgotten that the United States have, at no very distant period, most freely exercised the right of withholding their ratification from even the authorized act of their own diplomatic agents, done under the avowed sanction of a full power.

I conceive that what has been already said establishes, beyond the reach of doubt or controversy, that His Majesty's Minister did violate his instructions, and the consequent right in His Majesty to disavow an act so concluded. That His Majesty had strong and solid reasons for so doing will appear, not only from his instructions having been violated, but from the circumstance that the violation of them involved the sacrifice of a great system of policy, deliberately adopted and acted upon in just and necessary retaliation of the unprecedented modes of hostility resorted to by his enemy.

There appears to have prevailed, throughout the whole of this transaction, a fundamental mistake, which would suggest that His Majesty had proposed to propitiate the Government of the United States, in order to induce it to consent to the renewal of the commercial intercourse between the two countries; as if such had been the relations between Great Britain and America, that the advantages of that intercourse were wholly on the side of the former, and as if, in any arrangement, whether commercial or politi-

cal, His Majesty could condescend to barter objects of national policy and dignity for permission to trade with another country.

Without minutely calculating what may be the degree of pressure felt at Paris by the difference in the price of goods whether landed at Havre or at Hamburg, I will, in my turn, appeal to your judgment, sir, whether it be not a strong and solid reason, worthy to guide the councils of a great and powerful monarch, to set bounds to that spirit of encroachment and universal dominion which would bend all things to its own standard? Is it nothing, in the present state of the world, when the agents of France authoritatively announce to their victims "that Europe is submitting and surrendering by degrees," that the world should know that there is a nation which, by that divine goodness, so strongly appealed to in the paper to which I allude,* is enabled to falsify the assertion? Is it not important, at such a moment, that Europe and America should be convinced that, from whatever country honorable and manly resistance to such a spirit may have been banished, it will still be found in the Sovereign of the British nation and in the hearts of his subjects?

As to the precautions taken in England to insure from injury, upon this occasion, the citizens of the United States, and which appear to you to be even yet insufficient, I am confident that, in every doubtful case, the usual liberality of our tribunals will be exercised in determining upon the circumstances of it; and it was at Mr. Pinkney's express requisition that additional instructions were given to the commanders of His Majesty's ships of war and privateers to extend to vessels, trading to the colonies, plantations, and settlements of Holland, the same exemption from capture and molestation as was granted to vessels sailing for any of the ports of Holland.

On the subject of return cargoes from those ports, I must observe, that, although it was intended to prevent, as far as was practicable, the inconveniences likely to be created by the unauthorized agreement made here in April last, yet it was not and could not be intended to obviate all possible inconveniences, even such as might have arisen if no such agreement had ever been made.

If an American vessel had sailed from America for Holland in time of profound peace, or in time of war, the ports of Holland not being at the date of sailing under blockade, it might yet have happened that, in the period between the commencement of such voyage and the arrival of the vessel at the port of destination, a blockade might have been established before that port. The vessel arriving would, in that case, have been warned not to enter the port, and would have been turned away with the loss of the whole object of the voyage. This would be no extraordinary hardship, and would afford no legitimate ground of complaint.

The Order in Council is far less strict than

*Augereau's proclamation to the Catalonians.

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such a blockade would be, forasmuch as it provides for the original voyage, commenced in expectation of being admitted to the port of destination, by permitting the entry into the ports of Holland; and it is no just ground of complaint that it does not superadd to that permission the liberty to re-export a cargo of the enemy's goods or produce.

I beg leave briefly to recapitulate the substance of what I have had the honor to convey to you, as well in verbal, as in written communications.

I have informed you of the reasons of His Majesty's disavowal of the agreement so often mentioned; I have shown them, in obedience to the authority which you have quoted, to be both strong and solid, and such as to outweigh, in the judgment of His Majesty's Government, every other consideration which you have contemplated; I have shown that that agreement was not concluded in virtue of a full power, and that the instructions given on the occasion were violated.

Beyond this point of explanation, which was supposed to have been attained, but which is now given, by the present letter, in the form understood to be most agreeable to the American Government, my instructions are prospective; they look to substituting for notions of good understanding, erroneously entertained, practical stipulations on which a real reconciliation of all differences may be substantially founded; and they authorize me not to renew proposals which have already been declared here to be unacceptable, but to receive and discuss any proposal made on the part of the United States, and eventually to conclude a convention between the two countries. It is not, of course, intended to call upon me to state as a preliminary to negotiation what is the whole extent of these instructions; they must, as I have before said, remain subject to my own discretion, until I am enabled to apply them to the overtures which I may have the honor of receiving from you.

I have the honor to be, with great respect, sir, your most obedient servant.

F. J. JACKSON.

No. 10.

Mr. Jackson to the Secretary of State.

WASHINGTON, *October 27, 1809.*

SIR: Finding by your letter of the 19th instant, that, notwithstanding the frequent statements made by me, in our conferences, of the terms of satisfaction which I am empowered to offer to this country for the unauthorized attack made by one of His Majesty's ships of war upon the frigate of the United States, the Chesapeake, I have not had the good fortune to make myself distinctly understood by you, I have the honor to enclose herewith a paper of memoranda, containing the conditions, on the basis of which I am ready to proceed to draw up with you the necessary official documents in the form proposed in my letter of the 11th instant, or in any other form upon which we may hereafter agree.

I have the honor to be, with great respect, sir, your most obedient, humble servant.

F. J. JACKSON.

HON. ROBERT SMITH, &c.

[Enclosed in Mr. Jackson's letter of Oct. 27, 1809.]

The President's proclamation of July, 1807, prohibiting to British ships of war the entrance into the harbors of the United States, having been annulled, His Majesty is willing to restore the seamen taken out of the Chesapeake, on reserving to himself a right to claim in a regular way, by application to the American Government, the discharge of such of them (if any) as shall be proved to be either natural born subjects of His Majesty, or deserters from His Majesty's service.

His Majesty is willing to make a provision for the families of such men as were slain on board the Chesapeake, in consequence of the unauthorized attack upon that frigate, provided that such bounty shall not be extended to the family of any man who shall have been either a natural born subject of His Majesty, or a deserter from His Majesty's service.

No. 11.

Mr. Smith to Mr. Jackson.

DEPARTMENT OF STATE, *Nov. 1, 1809.*

SIR: Your letter of the 23d ultimo, which was duly received, would have been sooner acknowledged, had I not by sickness been rendered for several days utterly unfit for business.

Although the delay and the apparent reluctance in specifying the grounds of the disavowal of the arrangement, with respect to the Orders in Council, do not correspond with the course of proceeding deemed most becoming the occasion; yet, as the explanation has at length been thus made, it only remains, as to that part of the disavowed arrangement, to regret that such considerations should have been allowed to outweigh the solid objections to the disavowal; it being understood, at the same time, that His Britannic Majesty perseveres in requiring, as indispensable conditions on the part of the United States, an entire relinquishment of the right to trade with enemy's colonies, and also a permission to the British navy to aid in executing a law of Congress—pretensions which cannot but render abortive all proposals whatever upon this subject, whether made by the United States or by His Britannic Majesty.

Whilst you have deemed it proper to offer an explanation with respect to the disavowal of one part of the arrangement, I must remind you that there is not to be found in your letter any like specification of the reasons for the disavowal, nor particularly is it shown that the instructions were violated, as to the other part, viz., the case of the Chesapeake; the case in which, in an especial manner, an explanation was required, and in which only you professed to have authority to make to this Government any overtures.

For the first time it is now disclosed that the

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subjects arranged with this Government by your predecessor are held to be not within the authority of a Minister Plenipotentiary, and that not having had a "full power distinct from that authority, his transactions on those subjects might, of right, be disavowed by his Government." This disclosure, so contrary to every antecedent supposition and just inference, gives a new aspect to this business. If the authority of your predecessor did not embrace the subjects in question, so as to bind his Government, it necessarily follows, that the only credentials yet presented by you, being the same with those presented by him, give you no authority to bind it; and that the exhibition of a "full power" for that purpose, such as you doubtless are furnished with, is become an indispensable preliminary to further negotiation; or, to speak more strictly, was required, in the first instance, by the view of the matter now disclosed by you. Negotiation, without this preliminary, would not only be a departure from the principle of equality, which is the essential basis of it, but would, moreover, be a disregard of the precautions and of the self-respect enjoined on the attention of the United States by the circumstances which have hitherto taken place.

I need scarcely add, that in the full power alluded to, as a preliminary to negotiation, is not intended to be included either the whole extent or any part of your instructions for the exercise of it. These, of course, as you have justly remarked, remain subject to your own discretion.

I abstain, sir, from making any particular animadversions on several irrelevant and improper allusions in your letter, not at all comporting with the professed disposition to adjust, in an amicable manner, the differences unhappily subsisting between the two countries. But it would be improper to conclude the few observations, to which I purposely limit myself, without advertising to your repetition of a language implying a knowledge, on the part of this Government, that the instructions of your predecessor did not authorize the arrangement formed by him. After the explicit and peremptory asseveration that this Government had no such knowledge, and that with such a knowledge no such arrangement would have been entered into, the view which you have again presented of the subject, makes it my duty to apprise you that such insinuations are inadmissible in the intercourse of a foreign Minister with a Government that understands what it owes to itself. I have the honor, &c.

R. SMITH.

Hon. F. J. JACKSON, &c.

No. 12.

Mr. Jackson to the Secretary of State.

WASHINGTON, November 4, 1809.

SIR: When I forwarded to my Court your letter of the 19th ultimo, and the answer which I returned to it, I imagined, and I may add I hoped, that the retrospective correspondence, into which you thought it necessary to enter with me, had

been closed. You will, no doubt, recollect with what reluctance I acquiesced in your intimation on this head; not, as I believe has been seen, from any difficulty in maintaining the justice of the cause which is entrusted to me, but because I was and still am of opinion that this sort of correspondence is not calculated to remove differences and soothe irritations of the most unfortunate tendency. As, however, I had no choice but to renounce, for the present, the hope of effectuating this desirable object, or to pursue it in the manner prescribed in your letter of the 9th ultimo, so I am now unwillingly compelled to enter upon the consideration of another letter from you, under date of the 1st instant, which but too strongly confirms the opinion I before entertained.

Since, sir, it has been judged expedient to confine to a written form this important and interesting discussion; since that mode has been declared by you to be indispensable, I will first appeal to the written communications which have passed between us; and I do this with the greater satisfaction, because I consider it to be the chief cause of the present remarkable state of things, that in speaking of engagements contracted or supposed to have been contracted between the two countries, understandings or implied engagements have been allowed to take place of written compacts, and have been considered, in some instances, as having the same validity. It is, furthermore, necessary to place in the most unequivocal light a topic, which I observe to be constantly and prominently restated in your letters, notwithstanding the repeated, but, as it should seem, fruitless endeavors used in mine to clear it from the slightest shadow of obscurity.

You say, "that it is understood that His Britannic Majesty perseveres in requiring, as indispensable conditions on the part of the United States, an entire relinquishment of the right to trade with the enemy's colonies, and also a permission to the British navy to aid in executing a law of Congress."

This same statement is contained in your letter of the 9th ultimo, and represented as the substance of what had fallen from me in our previous conferences. In my answer to that letter, I took the liberty of showing that such a supposition was erroneous, and I have looked in vain to my letter of the 23d to find in it any suggestion of a similar tenor. I believe, therefore, that, by reference to my two letters, you will find that the statement now again brought forward is contained in neither of them; that it made no part of my previous conversations with you; and that I have in no way given room to suppose that I ever made any such statement at all.

That before the Orders in Council can be revoked their object must be obtained in some other way, is unquestionably true; but you may be assured, sir, that there is no wish whatever entertained in England that the British navy should be employed in executing a law of Congress. If the proposal that was made upon that subject,

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and made, as you now know, because it was believed to be acceptable here, had been adopted, and had become a matter of compact between the two countries, and thereby a part, not of the law of Congress, but of the public law binding upon both parties, and which both would have had a common interest in seeing duly executed; in that case, the agency of the British navy would not have had the invidious aspect which is now attempted to be given to it. At present there is no engagement between the two countries, no laws of Congress which bear a reference to any such engagement, and, consequently, it cannot be wished to take any share whatever in the execution of those laws.

In regard to the colonial trade, I need only observe, that all or nearly all the enemy's colonies are blockaded by British squadrons; it cannot, therefore, be so much an object of solicitude as you imagine to obtain the relinquishment of the trade of any country to those colonies. On the contrary, you will find it stated in my letter of the 11th ultimo to be a "matter of indifference whether the Order in Council" (on this subject) "be continued, or an arrangement, by mutual consent, substituted in its room."

When I informed you that the agreement concluded here in April last had been framed in deviation from the instructions given for the occasion, my explanation was intended to apply to both parts of that agreement; that nothing, required by the most scrupulous accuracy, may be wanting, I now add, that the deviation consisted in not recording, in the official document signed here, the abrogation of the President's proclamation of the 2d July, 1807, as well as the two reserves specified in the paper of memoranda enclosed in my official letter to you of the 27th ultimo.

There is another motive for the disavowal of this part of the arrangement, considered to be so strong and so self-evident, upon the very face of the transaction, that I am not commanded to do more than indicate it in the manner I have already done. By this forbearance His Majesty conceives that he is giving an additional pledge of his sincere disposition to maintain a good understanding with the United States.

I am somewhat at a loss to give a distinct reply to that part of your letter which relates to Mr. Erskine's authority to conclude with you in virtue of his general letter of credence, because I do not very distinctly understand the tendency of it. I never before heard it doubted that a full power was requisite to enable a Minister to conclude a treaty, or that a mere general letter of credence was insufficient for that purpose.

If it were otherwise, and a Government were in all cases to be bound by the act, however unauthorized, of an accredited Minister, there would be no safety in the appointment of such a Minister, and ratifications would be useless. No full power was given in the present case, because it was not a treaty, but the materials for forming a treaty, that was in contemplation.

In his despatch of the 23d January, Mr. Secre-

tary Canning distinctly says to Mr. Erskine: "Upon receiving through you, on the part of the American Government, a distinct and official recognition of the three above-mentioned conditions, His Majesty will lose no time in sending to America a Minister fully empowered to consign them to a formal and regular treaty."

This Minister would, of course, have been provided with a full power; but Mr. Erskine was to be guided by his instructions, and, had the agreement concluded here been conformable to them, it would without doubt have been ratified by His Majesty. I must beg your very particular attention to the circumstance that His Majesty's ratification has been withheld, not because the agreement was concluded without a full power, but because it was altogether irreconcilable to the instructions on which it was professedly founded. The question of the full power was introduced by yourself to give weight, by a quotation from a highly respected author, to your complaint of the disavowal; in answer to which I observed, that the quotation did not apply, as Mr. Erskine had no full power. Never did I imagine, or any where attempt, to rest the right of disavowal upon that circumstance: indubitably his agreement would, nevertheless, have been ratified, had not the instructions, which in this case took the place of a full power, been violated.

I am surprised at the transition, by which it appears to you that this part of the subject is connected with the authority empowering me to negotiate with you. It will not, I dare say, have escaped your recollection, that I informed you, at a very early period of our communications, that in addition to the usual credential letter, His Majesty had been pleased to invest me with a full power under the great seal of his Kingdom, for the express purpose of concluding a treaty or convention. I well remember your testifying your satisfaction at the circumstance; and I have only now to add, that I am ready, whenever it suits your convenience, to exchange my full power against that with which you shall be provided for the progress of our negotiation.

I am concerned, sir, to be obliged a second time to appeal to those principles of public law, under the sanction and protection of which I was sent to this country. Where there is not freedom of communication in the form substituted for the more usual one of verbal discussion, there can be little useful intercourse between Ministers; and one, at least, of the epithets which you have thought proper to apply to my last letter is such as necessarily abridges that freedom. That any thing therein contained may be irrelevant to the subject, it is, of course, competent in you to endeavor to show; and as far as you succeed in so doing, in so far will my argument lose of its validity; but, as to the propriety of my allusions, you must allow me to acknowledge only the decision of my own Sovereign, whose commands I obey, and to whom alone I can consider myself responsible. Beyond this, it suffices that I do not deviate from the respect due to the Government to which I am accredited.

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You will find that, in my correspondence with you, I have carefully avoided drawing conclusions that did not necessarily follow from the premises advanced by me, and least of all should I think of uttering an insinuation, where I was unable to substantiate a fact. To facts, such as I have become acquainted with them, I have scrupulously adhered, and in so doing I must continue, whenever the good faith of His Majesty's Government is called in question, to vindicate its honor and dignity, in the manner that appears to me best calculated for that purpose.

I have &c., F. J. JACKSON.

No. 13.

The Secretary of State to Mr. Jackson.

DEPARTMENT OF STATE, Nov. 8, 1809.

SIR: In my letter of the 19th ultimo, I stated to you that the declaration in your letter of the 11th, that the despatch from Mr. Canning to Mr. Erskine of the 23d January was the only despatch by which the conditions were prescribed to Mr. Erskine, for the conclusion of an arrangement on the matter to which it related, was then, for the first time, made to this Government. And it was added that, if that despatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it were the only ones on which he was authorized to make an arrangement, the arrangement would not have been made.

In my letter of the 1st instant, adverting to the repetition in your letter of the 23d ultimo, of a language implying a knowledge in this Government that the instructions of your predecessor did not authorize the arrangement formed by him, an intimation was distinctly given to you that, after the explicit and peremptory asseveration that this Government had not any such knowledge, and that with such a knowledge such an arrangement would not have been made, no such insinuation could be admitted by this Government.

Finding that, in your reply of the 4th instant, you have used a language which cannot be understood but as reiterating and even aggravating the same gross insinuation, it only remains, in order to preclude opportunities which are thus abused, to inform you that no further communications will be received from you, and that the necessity of this determination will, without delay, be made known to your Government. In the meantime, a ready attention will be given to any communications affecting the interests of the two nations, through any other channel that may be substituted. I have the honor to be, &c.

No. 14.

Mr. Oakley, the British Secretary of Legation, to the Secretary of State.

Mr. Oakley, His Majesty's Secretary of Legation, is desired by Mr. Jackson to state to the Secretary of State, that as Mr. Jackson has been already once most grossly insulted by the inhabitants of the town of Hampton, in the unprovoked language of abuse held by them to several officers

bearing the King's uniform, when those officers were themselves violently assaulted and put in imminent danger, he conceives it to be indispensable to the safety of himself, to the gentlemen attached to his mission, and of his family, during the remainder of their stay in the United States, to be provided with special passports or safeguards from the American Government. This is the more necessary, since some of the newspapers of the United States are daily using language whose only tendency can be to excite the people to commit violence on Mr. Jackson's person. In consequence, he requests that the undermentioned names may be inserted in the documents to be furnished him:

Francis James Jackson; Mrs. Jackson; their three children; Charles Oakley, Esq., His Majesty's Secretary of Legation; Mr. George Outley Private Secretary.

Servants.—Robert Clavering, Francis Martin, William Attre, Charles Beecroft, Richard Lowe, John Price, John Lilly, James Wright, Amelia George, Mary Smith, Harriet Patten, Martha Wood, Frances Blackwell.

[This note was received at the Department of State on the 11th November.]

No. 15.

Mr. Oakley to the Secretary of State.

WASHINGTON, Nov. 13, 1809.

Mr. Oakley is desired by Mr. Jackson to say to the Secretary of State:

That Mr. Jackson has seen, with much regret, that facts, which it has been his duty to state in his official correspondence, have been deemed by the American Government to afford a sufficient motive for breaking off an important negotiation, and for putting an end to all communication whatever with the Minister charged by his Sovereign with that negotiation so interesting to both nations, and on one point of which an answer has not even been returned to an official and written overture.

One of the facts alluded to has been admitted by the Secretary of State himself, in his letter of the 19th October, viz: That the three conditions forming the substance of Mr. Erskine's original instructions, were submitted to him by that gentleman. The other, viz: that that instruction is the only one in which the conditions were prescribed to Mr. Erskine, for the conclusion of an arrangement on the matter to which it related, is known to Mr. Jackson by the instructions which he has himself received.

In stating these facts, and in adhering to them, as his duty imperiously enjoined him to do, Mr. Jackson could not imagine that offence would be taken at it by the American Government, as most certainly none could be intended on his part; but, since he has been informed by the Secretary of State that no further communications will be received from him, he conceives that he has no alternative, that is consistent with what is due to the King's dignity, but to withdraw altogether from the seat of the American Government, and

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wait the arrival of His Majesty's commands upon the unlooked for turn which has thus been given to his affairs in this country.

Mr. Jackson means to make New York the place of his residence.

No. 16.

The Secretary of State to Mr. Pinkney.

DEPARTMENT OF STATE, Nov. 23, 1809.

SIR: My letters in the correspondence with Mr. Jackson, already transmitted to you, sufficiently evince the disappointment that was felt on finding that he had not been charged to make to this Government either the frank explanations or the liberal propositions which the occasion manifestly required. Instead of this obvious course of proceeding, it was in the outset perceived that his object was to bring us to resume the subjects of the arrangement of April, in a way that would imply that we were aware that the arrangement was not binding on his Government, because made with a knowledge, on our part, that Mr. Erskine had no authority to make it; and thus to convert the responsibility of his Government for the disavowal, into a reproach on this for its conduct in the transaction disavowed.

In the first instance, it was deemed best rather to repel his observations argumentatively, than to meet them as an offensive insinuation. This forbearance had not the expected effect of restraining him from a repetition of the offence. And even on his further insinuations, nothing more was done than to premonish him of the inadmissibility of so indecorous a course of proceeding. This, also, being without effect, nothing remained but the step finally taken. And there was the less hesitation in shutting the door to further opportunities for insulting insinuations, as the disclosure he had made and the spirit of his discussions had so entirely shut it to the hope of any favorable result from his mission.

I will not dwell on his reluctance to give up the uncertainties of verbal, for the precision of written discussion; nor on the manner or the time of his denial that he had given any room at all for a statement, which, in order to guard against the misconceptions incident to verbal conferences, I had placed before him in writing, with a request that he would point out any inaccuracies, and to which he did not then object, otherwise than by intimating that he could not have made the statement with the particular view which seemed to be supposed. Nor will I dwell on the various instances in which partial or inconsistent views of the subject have taken place of its real merits. But it may not be amiss to make some observations on the correspondence, as it relates to the justification of his Government, in having disavowed the act of his predecessor.

With respect to the Orders in Council, the ground of a disavowal is, the difference between the arrangement and the printed despatch of Mr. Canning to Mr. Erskine, of the 23d of January. According to this despatch, then, the arrangement failed in three points.

1st. In not relinquishing the trade of the United States with enemies' colonies.

With respect to this point, it is not necessary at this time to discuss the right to that trade. It is sufficient to remark, 1st, That as the trade is admitted to become, in the view of Great Britain, of little practical importance, why has it been made a ground of the disavowal, and especially as important considerations only could, upon principles of public law, have justified a measure of so serious a character? 2d, That as the colonial trade is a subject nowise connected either with the Orders in Council, or with the affair of the Chesapeake, why has it been permitted to frustrate an arrangement relating to those subjects, and to those only? 3d, That as this condition is alleged to have originated in a supposition that it would be agreeable to the American Government, why has it been persisted in, after the error was made known by the representation of Mr. Erskine to his Government, that neither this nor the other conditions of the despatch of the 23d January were attainable here?

2d. Another point of the despatch, and not in the arrangement, is, that the British navy might capture our trade to ports prohibited by the United States.

This condition, too, appears to have had its origin in a mistake of your meaning in a conversation with Mr. Canning, as noted by yourself, and in an inference then deduced as to the disposition of this Government. But this double mistake must have been brought to light in time to have been corrected in the new mission. In urging it, Mr. Canning has taken a ground forbidden by those principles of decorum which regulate and mark the proceedings of Governments towards each other. In his despatch, the condition is stated to be for the purpose of securing the *bona fide* intention of America to prevent her citizens from trading with France and certain other Powers; in other words, to secure a pledge to that effect against the *mala fide* intention of the United States. And this despatch, too, was authorized to be communicated *in extenso* to the Government of which such language was used. Might it not have been reasonably expected that such a condition, and such observations, would, at least on such an occasion, have been given up by a Government willing to smooth the way to an amicable settlement of existing differences?

In his zeal to vindicate his Government, Mr. Jackson too, has attempted a gloss on this most extraordinary idea of calling on a foreign sovereignty, not indeed to make laws for us, but what is equivalent in principle, to supply a supposed inability to execute them. He calls such an interposition of his Government not an execution of the law of Congress, but of a compact binding as a public law on both parties, and which both would have a common interest in seeing duly executed. On his own principles, there ought to be a reciprocity, not only in the execution of the compact, but in the obligation and interest resulting from it. Besides, where there is a reciprocity in compacts between nations touching

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attributes of sovereignty, there is always as much of sovereignty gained as is parted with, so that there be no loss nor indignity on either side.

3. The remaining point in the despatch, not secured by the arrangement, is that which required, that whilst our prohibitory laws should be repealed as to Great Britain, they should be left in force as to France, and the Powers adopting or acting under her decrees.

This is the condition which alone properly belongs to the subject; and it is to be remarked, in the first place, that the British project, of which this condition makes a part, contemplated two things in their nature incompatible; one, a repeal of the prohibitory acts as to Great Britain, without waiting for the conclusion of a regular treaty; the other, a pledge or engagement for their continuance as to other Powers. Now, from the nature of our Constitution, which, in this particular, ought to have been attended to by the British Government, it is manifest that the Executive authority could have given no such pledge, that the continuance of the prohibitory acts, being a subject of legislative consideration, could not have been provided for until the meeting of the Legislature; and that the condition could not, therefore, but have failed, either in the immediate renewal of commerce with Great Britain, or in the immediate engagement that it should not be renewed with France.

The British Government ought to have acquiesced in, and indeed ought to have been satisfied with the attainment of the important object of an immediate repeal of our prohibitory laws, and with the consideration that the other object, not immediately attainable, was unnecessary at the time, because the prohibition as to France was then in force, and because there was every reason to infer, not only from this fact, but from the spirit of the communications made from time to time, and from the overtures before submitted to the British Government, that, without a repeal of the French decrees, our prohibitory laws would be in force against France, and especially in the case of a repeal of the British Orders, which would necessarily render a continuance of the French decrees doubly obnoxious.

But if, on this head, doubts could have been entertained, instead of rejecting the arrangement, ought not the repealing act on our part to have been met with a suspension at least of the Orders in Council, until it could have been seen whether the non-intercourse law would or would not have been continued against France? Such a suspension would not have given, in any point of view, more advantage to the United States than was given to Great Britain by the repeal which had taken place on their part.

If this reasonable course could not have been substituted for the disavowal, why was not a final disavowal suspended, with a proposition that the arrangement would be executed by Great Britain in the event of a compliance on the part of the United States with the condition required as to France? I am not unaware, you may be told, that the non-intercourse law of the United States did

not extend to Holland, though so intimately connected with France, and so subservient to her decrees against neutral commerce.

It would not be improper to observe, that this objection can be the less urged by Great Britain, as she has herself never, in her alleged retaliations, adhered to the principle on which they were founded.

Thus she has from the date of them, until very lately, directed them against the American trade even to Russia, although Russia had never adopted the French decrees, nor otherwise violated our neutral trade with Great Britain. So in her order of April last, she has discriminated not only between the countries devoted to France by the ties of blood, and other Powers, but between Holland, Westphalia, and Naples, in enforcing her prohibitory order against the first and not against the two last. Whilst, therefore, she finds it expedient to make these distinctions, she ought to presume that we too may perceive equal propriety in the distinctions we have made.

But it may be of more importance here to compare the British Order in Council of April last with the arrangement of April made by Mr. Erskine. It will thence be seen how little is the real difference, and how trivial it is when compared to the extensive serious consequences of the disavowal.

Under the Order in Council of April, all the ports of Europe except France, including the Kingdoms of Italy and Holland, with their dependencies, are opened to our commerce.

Under the arrangement of April, combined with our act of non-intercourse, all the ports of Europe except France and her dependencies, including the Kingdom of Italy, would have been opened to our commerce.

The difference then is reduced merely to Holland, and that again is reduced to the difference between a direct trade to the ports of Holland, and an indirect trade to Holland through the neighboring ports of Tonnigen, Hamburg, Bremen, and Embden.

Now, as the injuring of the enemies of Great Britain is the only avowed object of her interdicting order against our trade, let a computation be made of the effect which this difference between the Order in Council and the arrangement could possibly have in producing such an injury. And then let the question be candidly answered, whether, laying aside all considerations of right and justice, sufficient inducements could have been found in that result for rejecting the arrangement, and for producing the consequent embarrassments as well to Great Britain as to the United States.

If it be necessary, as Mr. Jackson has stated, to set bounds to a spirit of encroachment and universal dominion, which would bend all things to its own standard, and to falsify by honorable and manly resistance an annunciation that all Europe is submitting by degrees, the effort must be feeble, indeed, which is to be found in the inconvenience accruing to the formidable foe from the operation of this Order in Council, and especially when we combine with it the strange phenomenon of sub-

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stituting for the lawful trade of the United States a trade of British subjects contrary to the laws of the adverse party, and amounting, without a special license in the eye of British law, to high treason.

Thus much for the Orders in Council. What has taken place with respect to the case of the Chesapeake will equally engage your attention.

You will perceive that, throughout the early stages of the correspondence, this case was, in some respects, improperly confounded with, in others improperly separated from, that of the Orders in Council; and particularly that pains had been taken by Mr. Jackson to substitute verbal and vague observations on the disavowal of this part of the arrangement for an explicit and formal explanation, such as was obviously due. It will be seen, also, that when finally brought to the point, he referred for a justification of the disavowal to the departure of Mr. Erskine from his instructions, without showing what those instructions were, and to allusions to an expression in the arrangement without giving to his meaning the distinctness prerequisite to a just reply.

It appears, however, that he lays great stress on the proposal enclosed in his letter of the 27th of October, at once indicating the departure of Mr. Erskine from his instructions, and as containing the conditions on the basis of which he was ready to enter on an adjustment. And from a note from the Secretary of the British Legation, it appears that he has complained of not having received any answer to this proposal, as he had before complained that no answer had been given to his verbal disclosures on this head in his interviews with me.

With respect to his intimations in conversation, as they were preceded by no assignment of the reasons for not having executed the original adjustment, it cannot be necessary to remark, that no such notice as he wished to obtain could with any sort of propriety have been taken of them.

With respect to his written project, it will suffice to remark:

1st. That besides his reluctant and indistinct explanation of the disavowal of the original adjustment, he did not present his proposal until he had made such progress in his offensive insinuation as made it proper to wait the issue of the reply about to be given to it, and that this issue had necessarily put a stop to further communication.

2d. That although he had given us to understand that the ordinary credentials, such alone as he had delivered, could not bind his Government in such a case, his proposal had neither been preceded by, nor accompanied with, the exhibition of other commission or full power; nor, indeed, has he ever given sufficient reason to suppose that he had any such full power to exhibit in relation to this particular case. It is true that, in his letter of the 23d October, he has stated an authority eventually to conclude a convention between the two countries. Without adverting to the ambiguity of the term *eventually*, with the mark of emphasis attached to it, and to other uncertainties in the phraseology, it is clear that the authority re-

ferred to, whatever it may be, is derived from instructions subject to his own discretion, and not from a patent commission, such as might be properly called for. It is true, also, that in his letter of the 4th of November, subsequent to his proposal, he says he was possessed of a full power, in due form, for the express purpose of concluding a treaty or convention. But it still remains uncertain whether by the treaty or convention to which it related was not meant an *eventual* or provisional treaty on the general relations between the two countries, without any reference to the case of the Chesapeake. Certain it is, that the British Government, in former like cases, as will be seen by the adjustment of that part of the affair at Nookta Sound which is analogous to the case, did not consider any such distinct full power as necessary; nor is there the slightest ground for supposing that Mr. Erskine, although confessedly instructed to adjust this very case of the Chesapeake, was furnished with any authority distinct from his credential letter. That Mr. Jackson has any such commission is the less to be supposed, as it is but barely possible that, possessing it, he should not, on some occasion, or in some form, have used a language susceptible of no possible doubt on this point.

But, proceeding to the proposal itself, it is to be kept in mind that the conditions forming its basis are the very conditions for the deviating from which Mr. Erskine's adjustment was disavowed. Mr. Jackson, if not on others, is on this point, explicit. "I now add, says he, that the deviation consisted in not recording in the official document signed here, the abrogation of the President's proclamation of the 2d July, 1807, as well as the two reserves specified in the paper of memoranda, enclosed in my official letter to you of the 27th ultimo."

Considering, then, the conditions in the proposal as an ultimatum, in what light are we compelled to view such an attempt to repair the outrage committed on the frigate Chesapeake, and to heal the disappointment produced by a disavowal of a previous equitable reparation?

It is impossible, on such an occasion, not to recall the circumstances which constituted the character of the outrage to which such an ultimatum is now applied. A national ship, proceeding on an important service, was watched by a superior naval force, enjoying at the time the hospitality of our ports, was followed, and scarcely out of our waters, when she was, after an insulting summons, attacked in a hostile manner; the ship so injured as to require extensive repairs; the expedition frustrated; a number of the crew killed and wounded; several carried into captivity; and one of them put to death under a military sentence. The three seamen, though American citizens, and, therefore, on every supposition, detained as wrongfully as the ship would have been detained, have, notwithstanding, now remained in captivity between two and three years, and, it may be added, after it has long ceased to be denied that they are American citizens.

Relations with Great Britain.

Under these circumstances, we are called upon to ransom the captives.

1st. By acknowledging that a precautionary proclamation, justified by events preceding the outrage, by the outrage itself, and by what immediately followed it, was unjustifiable, and that a repeal of it was properly a condition precedent to a reparation for the outrage. And this requisition is repeated, too, after such an acknowledgment had been uniformly asserted by this Government to be utterly inadmissible, and, what is particularly remarkable, at a time when the proclamation, as is well understood, was no longer in force. The occasion obviously invited a silent assumption of the existing fact, and this would have excluded the difficulty heretofore found to be insuperable.

2d. By throwing into complete oblivion the conduct of the officer answerable for the murderous transaction, with a knowledge, too, on our part, that instead of being punished, or even brought to trial, he has been honored by his Government with a new and more important command.

3d. By admitting a right on the part of Great Britain to claim a discharge from our service of deserters generally, and particularly of her natural born subjects, without excepting such as had been naturalized in due form under the laws of the United States.

It has not been explained whether it was meant, as the universality of the term "deserters" would import, to include American citizens who might have left the British service. But what possible consideration could have induced the British Government to expect that the United States could admit a principle that would deprive our naturalized citizens of the legal privileges which they hold in common with their native fellow-citizens. The British Government, less than any other, ought to have made such a proposition, because it not only, like others, naturalizes aliens, but, in relation to the United States, has even refused to discharge from the British service native citizens of the United States involuntarily detained. If an American seaman has resided in Great Britain, or has married therein, or has accepted a bounty in her naval service, his discharge therefrom on the regular application of the British Government has been invariably refused by its Board of Admiralty. This I state on the authority of the official reports made to this Department. It is, therefore, truly astonishing, that, with a knowledge of these facts, such a pretension should have been advanced at all, but, above all, that it should have been made a *sine qua non* to an act of plain justice already so long delayed. This is the more to be regretted, as the omen does not favor the belief we would willingly cherish, that no predetermination exists in the Councils of His Britannic Majesty irreconcilable to an amicable arrangement of an affair which, affecting so deeply the honor of the United States, must precede a general regulation of the mutual interests of the two countries.

After the correspondence with Mr. Jackson

was terminated, two notes, copies of which are herewith sent to you, were presented to me in the name and by the hand of Mr. Oakley, the British Secretary of Legation.

The first requested a document having the effect of a special passport or safeguard to Mr. Jackson and his family during their stay in the United States. As the laws of this country allow an unobstructed passage through every part of it, and, with the law of nations equally in force, protect public Ministers and their families in all their privileges, such an application was regarded as somewhat singular. There was no hesitation, however, in furnishing a certificate of his public character, and to be used in any mode he might choose. But what surprised most was the reasons assigned for the application. The insult he alluded to was then, for the first time, brought to the knowledge of this Government. It had, indeed, been among the rumors of the day, that some unbecoming scene had taken place at Norfolk or Hampton, between some officers belonging to the Africaine and some of the inhabitants, and that it originated in the indiscretion of the former. No attention having been called for, and no inquiry made, the truth of the case is unknown. But it was never supposed that Mr. Jackson himself, who was on board the frigate had been personally insulted, nor is it yet perceived in what way he considers it as having happened. It is needless to remark that any representation on the subject would have instantly received every proper attention.

Another ground on which a protection was asked for, is the supposed tendency of the language of our newspapers to excite popular violence on Mr. Jackson's person. Had he been longer and better acquainted with the habits and spirit of the American people, he would probably never have entertained an apprehension of that sort. If he meant to animadvert on the free language of the newspapers, he might justly be reminded that our laws, as those of his own country, set bounds to that freedom; that the freedom of British prints, however great with respect to public characters of the United States, has never been a topic of complaint; and that, supposing the latitude of the American press to exceed that of Great Britain, the difference is infinitely less in this respect between the two, than between the British press and that of the other nations of Europe.

The second note seems to be essentially intended as a justification of the conduct of Mr. Jackson, in that part of his correspondence which had given umbrage. If he intended it as a conciliatory advance, he ought not to have preceded it by a demand of passports, nor by the spirit or the manner in which that demand was made. He ought, in fact, if such was his object, to have substituted an explanation in the place of his reply to my premonitory letter. But whether he had one or other, or both, of these objects in view, it was necessary for him to have done more than is attempted in this paper.

It was never objected to him, that he had sta-

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ted it as a fact that the three propositions in question had been submitted to me by Mr. Erskine, nor that he stated it as made known to him by the instructions of Mr. Canning; that the instruction to Mr. Erskine, containing these three conditions, was the only one from which his authority was derived to conclude an arrangement on the matter to which it related. The objection was, that a knowledge of this restriction of the authority of Mr. Erskine was imputed to this Government; and the repetition of the imputation, even after it had been peremptorily disclaimed. This was so gross an attack on the honor and veracity of this Government, as to forbid all further communications from him. Care was nevertheless taken, at the same time, to leave the door open for such as might be made through any other channel, however little the probability that any satisfactory communications would be received through any channel here.

To the other enclosures I add a printed copy of a paper purporting to be a circular letter from Mr. Jackson to the British Consuls in the United States. The paper speaks for itself. As its contents entirely correspond with the paper last referred to, as they were unnecessary for the ostensible object of the letter, which was to make known Mr. Jackson's change of residence, and as the paper was at once put into public circulation, it can only be regarded as a virtual address to the American people of a representation previously addressed to their Government—a procedure which cannot fail to be seen in its true light by his Sovereign.

The observations to which so much extent has been given in this letter, with those contained in the correspondence with Mr. Jackson, will make you fully acquainted with the conduct and the character he has developed, with the necessity of the step taken in refusing further communications from him, and with the grounds on which the President instructs you to request that he may be immediately recalled. You are particularly instructed, at the same time, in making those communications, to do it in a manner that will leave no doubt of the undiminished desire of the United States to unite in all the means the best calculated to establish the relations of the two countries on the solid foundation of justice, of friendship, and of mutual interest.

I have the honor to be, with great respect and consideration, sir, your obedient servant.

R. SMITH.

[CIRCULAR.]

WASHINGTON, November 13, 1809.

SIR: I have to inform you, with much regret, that the facts which it has been my duty to state in my official correspondence with Mr. Smith, have been deemed by the President of the United States to afford a sufficient motive for breaking off an important negotiation, and for putting an end to all communication whatever with me as the Minister charged with that negotiation, so interesting to both nations, and on one most mate-

rial point of which an answer has not even been returned to an official and written overture.

One of the facts alluded to has been admitted by the Secretary of State himself, in his letter to me of the 19th October, viz: That the three conditions, forming the substance of Mr. Erskine's original instruction, were submitted to him by that gentleman. The other, viz: That that instruction is the only one in which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it related, is known to me by the instructions which I have myself received.

In stating these facts, and in adhering to them, as my duty imperiously enjoined me to do, in order to repel the frequent charges of ill faith which have been made against His Majesty's Government, I could not imagine that offence would be taken at it by the American Government, as most certainly none could be intended on my part; and this view of the subject has been made known to Mr. Smith. But, as I am informed by him that no further communication will be received from me, I conceive that I have no alternative left, which is consistent with the King's dignity, but to withdraw altogether from this city, and await elsewhere the arrival of His Majesty's commands upon the unlooked-for turn which has thus been given to his affairs in this country.

I mean, in the interval, to make New York the place of my residence; where you will henceforward please direct your communications to me, as I shall be accompanied by every member of His Majesty's mission. I am, &c.

F. J. JACKSON.

Extract of a letter from Mr. Pinkney to the Secretary of State.

LONDON, Feb. 28, 1809.

I have received from General Armstrong a letter, of which a copy is enclosed; and have, in consequence, made a written inquiry of Lord Wellesley, (with whom I had before communicated personally on the subject,) as to the existence of the blockades to which it alludes. I am not without hopes that the reply to my inquiry will amount to a declaration (satisfying, in substance, the condition mentioned in General Armstrong's letter) that these blockades are not in force; and, if it should, I will send immediate notice to General Armstrong. I have prepared an official letter to you on this head; which, with such additions as circumstances may enable me to make to it, will be sent by the corvette, the John Adams.

FRANCE.

[Communicated to Congress, November 29, 1809, February 19, and May 1, 1810.]

To the House of Representatives of the United States:

I transmit to the House a report of the Secretary of State, complying with their resolution of the 30th of April.

JAMES MADISON.

MAY 1, 1810.

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DEPARTMENT OF STATE,
May 1, 1810.

In pursuance of a resolution of the House of Representatives of yesterday, the Secretary of State has the honor of transmitting to the President of the United States, the accompanying papers, marked A, B, C, D, E, and F.

No information has been received, that any communication has been made to our Minister at London, on the part of the British Government, "in answer to any note presented by him in pursuance of instructions given on the 23d November, 1809."

No answers have been given to the "propositions or overtures, made on the part of the United States to the Governments of Great Britain and France, respecting any of the orders and decrees affecting neutral commerce," which have not been heretofore, or which are not herewith, communicated.

All which is respectfully submitted.

R. SMITH.

Extract—Mr. Smith, Secretary of State, to Mr. Armstrong.

DEPARTMENT OF STATE,
March 15, 1809.

The proceedings of Congress at their late session, combined with the Executive communications, affording, as they do, additional proofs of the pacific disposition of this Government, and of its strict observance of whatever the laws of neutrality require, you will not fail to avail yourself of the just arguments thence deducible in urging the equitable claims of the United States. The first, second, third, fourth, eleventh, and seventeenth sections of the act interdicting our commercial intercourse with Great Britain and France will, in that view, claim your attention, and especially the eleventh section, authorizing the Executive to renew our commerce with the nation withdrawing the operations of its illegal edicts. And you will be careful to let it be understood that the authority thus vested will, of course, be exercised in the event stated in the law.

Mr. Armstrong to Count Champagny.

PARIS, April 29, 1809.

The undersigned, Minister Plenipotentiary of the United States, has the honor of presenting to his Excellency the Minister of Exterior Relations, the enclosed copy of a law recently passed by the Legislature of the Union.

This law, as may be seen by the several provisions of it, has been forced upon them, by the extraordinary circumstances of the times, and is to be regarded as an act of precaution, taken with the view only of protecting their own property and rights, and of once more appealing to the interests and justice of those who would disturb or destroy them.

Your Excellency may be assured, that as nothing has given more disquietude to the United States than the necessity which has impelled

them to the adoption of this measure, so nothing will give them more satisfaction than to see that necessity cease. It is in the spirit and sincerity of this declaration, that the undersigned is instructed to add, that any interpretation of the Imperial decrees of the 21st of November, 1806, and 17th of December, 1807, which shall have the effect of leaving unimpaired the maritime rights of the Union, will be instantaneously followed by a revocation of the present act, and a re-establishment of the ordinary commercial intercourse between the two countries.

I offer to your Excellency, &c.

JOHN ARMSTRONG.

Count CHAMPAGNY.

Gen. Armstrong to Mr. Smith, Secretary of State.

PARIS, Sept. 4, 1809.

SIR: The letter of which I send you a copy, was received during my absence, and detained in Paris till my return. The note promised in it has not yet been received. Mr. Warden informs me, that the Council of Prizes have been ordered to suspend their proceedings with regard to our vessels. I have the honor to be, &c.

JOHN ARMSTRONG.

Hon. R. SMITH, Secretary of State.

[TRANSLATION.]

Count Champagny to General Armstrong.

VIENNA, Aug. 8, 1809.

SIR: You have desired that one of the American vessels, which are in the ports of France, might be authorized to depart to the United States with your despatches. I have taken the orders of His Majesty on the subject of this demand, and His Majesty, always disposed to facilitate your communications to your Government, has permitted the departure of the vessel which you shall designate. I informed the Ministers of the Marine and of the Finances of this disposition, requesting them to insure the execution of it as soon as you shall have made known to them the name of the vessel and the port from which she is to depart.

I have the honor, sir, to apprise you, that I shall forthwith address to you a note, by order of His Majesty, on the actual situation of our relations with the United States. Please to profit by the departure of the vessel to make this known to the Federal Government, and permit me also to send by that conveyance some despatches to the Minister Plenipotentiary of His Majesty to the United States.

Accept, sir, the assurances, &c.

CHAMPAGNY.

Extract—General Armstrong to Mr. Champagny.

PARIS, Sept. 8, 1809.

I had the honor of receiving your Excellency's letter of the 22d August last, in exposition of the principles adopted by His Majesty with regard to neutral commerce. I shall hasten to transmit a copy of this note to my Government.

Relations with France.

Extracts—General Armstrong to Mr. Smith, Secretary of State.

PARIS, Sept. 16, 1809.

I received on the 6th instant, on my return from Holland, two notes from Count Champagny, copies of which I have the honor to enclose. In one of these you will find an exposition of the principles which have governed, and which will continue to govern, the conduct of His Majesty, with regard to neutral commerce. To this, which was offered as a definitive answer to our propositions, I have believed that any reply, before I had received the further instructions of the President, would have been premature.

Mr. Laurence arrived at L'Orient on the 9th, and Mr. Hazewell at Paris, with your despatch of the 11th of August last, on the 13th instant. I immediately communicated to Count Champagny the President's proclamation interdicting anew all commercial intercourse between the United States and Great Britain, and gave such other explanations as the case appeared to require.

Extract—Count Champagny to General Armstrong.

ALTENBURG, August 22, 1809.

I have the honor to address to you a subjoined note, which His Majesty has ordered me to send to you, and which I have announced in my last despatch. If France does not do at this time all that the United States of America can desire, your Government will be able to see, that neither prejudice nor animosity influences its conduct; that it is the effect of its attachment to the principles which the Americans, more than any other people, are interested in supporting, and of the necessity of reprisals which circumstances impose. The Emperor will consider as a happy event, that which shall enable him to contribute to the prosperity of America, in leaving to its commerce all the liberty and all the extension which can render it flourishing.

Official note from Count Champagny to General Armstrong.

ALTENBURG, August 22, 1809.

SIR : His Majesty the Emperor, apprized that you are to send a vessel to America, has ordered me to make known to you the invariable principles which have regulated, and which will regulate, his conduct on the great question of neutrals.

France admits the principle that the flag covers the merchandise.

A merchant vessel, sailing with all the necessary papers (*avec les expéditions*) from its Government, is a floating colony. To do violence to such a vessel, by visits, by searches, and by other acts of an arbitrary authority, is to violate the territory of a colony; this is to infringe on the independence of its Government. The seas do not belong to any nation; they are the common property of mankind, and the domain of all.

Enemy merchant vessels belonging to individ-

uals ought to be respected. Individuals who do not fight ought not to be made prisoners of war. In all her conquests, France has respected private property. The warehouses and the shops have remained with their proprietors. They have been free to dispose of their merchandises as they pleased, and at this moment a greater number (*convois*) of wagons, loaded principally with cotton, pass through the French armies, through Austria and Germany, on their way to such places as commerce has directed.

If France had adopted the usages of maritime war, all the merchandise of the continent of Europe would have been accumulated in France, and would have become a source of immense wealth. Such would have been, without doubt, the pretensions of the English, if they had had on the land that superiority which they have obtained at sea. We should have seen, as in the times of barbarism, the vanquished sold as slaves and their lands parcelled out. Mercantile avidity would have usurped everything; and the return to barbarous usages would have been the work of the Government of a nation who have improved the arts and civilization. The Government is not ignorant of the injustice of its maritime code. But what signifies to it what is just? It only considers what is useful to itself.

Such are the principles of the Emperor on the usages and rights of maritime war. When France shall have acquired a marine proportioned to the extent of her coasts and her population, the Emperor will put more and more in practice these maxims, and will use his endeavors to render the adoption of them general.

The right, or rather the pretension of blockading, by a proclamation, rivers and coasts, is as monstrous (*revoltante*) as it is absurd. A right cannot be derived from the will or the caprice of one of the interested parties, but ought to be derived from the nature of things themselves. A place is not truly blockaded, until it is invested by land and by sea; it is blockaded to prevent it from receiving the succors which might retard its surrender. It is only then that the right of preventing neutral vessels from entering it exists; for the place so attached is in danger of being taken, and the dominion of it is doubtful, and contested by the master of the town and him who blockades or besieges it. Hence the right of preventing even neutrals from having access to it.

The sovereignty and independence of the flag are, like the sovereignty and the independence of the territory, the property of all neutrals. A State may give itself to another, may destroy the act of its independence, may change its sovereign; but the rights of sovereignty are indivisible and unalienable; none can give up any part of them.

England has placed France in a state of blockade. The Emperor, by his decree of Berlin, has declared the Britannie isles in a state of blockade. The first measure kept neutral vessels at a distance from France; the second has interdicted to them England.

By her Orders in Council of the 11th November, 1807, England has laid a toll on neutral ves-

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sels, and has obliged them to pass through her ports before they should go to the places of their destination. By a decree of the 17th of December of the same year, the Emperor has declared vessels, whose flag shall have been violated, degraded, trodden under foot, as no longer belonging to their nation, (*denationalisé*.)

To screen itself from the acts of violence with which this state of things threatened its commerce, America laid an embargo in her ports; and, although France, who had done nothing more than resort to reprisals, saw her interests and the interests of her colonies wounded by this measure, nevertheless, the Emperor applauded this generous determination of renouncing all commerce, rather than acknowledge the dominion (*domination*) of the tyrants of the seas. The embargo has been raised; a system of exclusion has been substituted for it. The continental Powers, leagued against England, make a common cause; they aim at the same object, they will reap the same advantages; they ought also to run the same risks. The ports of Holland, of the Elbe, of the Weser, of Italy, and of Spain, will not enjoy (*ne jouiront*) any advantages of which those of France may be deprived. They will both (*les uns et les autres*) be either open or shut at the same time, to the commerce of which they may be the object.

Thus, sir, France acknowledges in principle, the liberty of the commerce of neutrals and the independence of maritime Powers. She has respected them until the moment when the maritime tyranny of England (which respected nothing) and the arbitrary acts of its Government have forced her to measures of reprisal, which she has adopted, but with reluctance.

Let England revoke her declarations of blockade against France; France will revoke her decree of blockade against England. Let England revoke her Orders in Council of the 11th November, 1807; the decree of Milan will fall of itself. American commerce will then have regained all its liberty, and it will be sure of finding favor and protection in the ports of France.

But it is for the United States, by their firmness, to bring on these happy results. Can a nation that wishes to remain free and sovereign even balance between some temporary interests, and the great interests of its independence, and the maintenance of its honor, of its sovereignty, and of its dignity?

Please to accept, sir, the assurances of my high consideration,
CHAMPAGNY.

The Secretary of State to Mr. Armstrong.

DEPARTMENT OF STATE, Dec. 1, 1809.

SIR: Enclosed you have five copies of the President's Message and of its accompanying documents. They will afford you a view of the existing state of things here, and particularly of the ground taken in the correspondence with the British Minister. You will perceive that the deliberations of Congress at their present session cannot but be embarrassed by the painful consideration that the two principal belligerents have

been, for some time, alike regardless of our neutral rights, and that they manifest no disposition to relinquish, in any degree, their unreasonable pretensions.

You will, also, herewith, receive a copy of a letter to Mr. Pinkney, which will show the light in which M. Champagny's letter is viewed by the President, and, at the same time, the course of proceeding prescribed to our Minister in London. You will, of course, understand it to be wished that you should ascertain the meaning of the French Government, as to the condition on which it has been proposed to revoke the Berlin decree. On the principle which seems to be assumed by M. Champagny, nothing more ought to be required than a recall by Great Britain of her proclamation or illegal blockades, which are of a date prior to that of the Berlin decree, or a formal declaration that they are not now in force. Should this be done, and be followed by an annulment of all the decrees and orders in chronological order, and Great Britain should afterwards put in force old or proclaim new blockades, contrary to the law of nations, it would produce questions between her and the United States, which the French Government is bound to leave to the United States, at least until it shall find it necessary to bring forward complaints of an acquiescence on our part, not consistent with the neutrality professed by us.

You will yourself, and, if necessary, you will let the French Government understand, that we do not consider ourselves bound to contest the legality of a blockade, which may be conformable to the definitions heretofore maintained by the United States, and particularly to the definition contained in the treaty of June and October, 1801, between Great Britain and Russia. However founded the definition of M. Champagny may be in reason and general utility, and, consequently, however desirable to be made the established law on the subject of blockades, a different practice has too long prevailed among all nations, France as well as others, and is too strongly authenticated by the writers of admitted authority, to be combated by the United States.

If you should receive from the French Government explanations proper to be communicated to Mr. Pinkney, you will not fail to transmit the same to him without delay. And should they be such as to make it important that Mr. Pinkney should immediately found thereon an application to the British Government, to prepare the way for a repeal of the Berlin decree, you will be pleased to hasten the communication to him by a special messenger. Whatever the explanations may be, you will, of course, transmit them to this department, with such other information as may be interesting. With great respect, &c.

Copy of a letter from General Armstrong to Mr. Pinkney.

PARIS, January 25, 1810.

SIR: A letter from Mr. Secretary Smith, of the 1st of December last, made it my duty to in-

Russia, &c.—Blockade of the Baltic.

quire of his Excellency the Duke of Cadore, what were the conditions on which His Majesty the Emperor would annul his decree, commonly called the Berlin decree; and whether, if Great Britain revoked her blockades of a date anterior to that decree, His Majesty would consent to revoke the said decree? To these questions I have this day received the following answer, which I hasten to convey to you by a special messenger.

ANSWER.

The only condition required for the revocation, by His Majesty the Emperor, of the decree of Berlin, will be the previous revocation, by the British Government, of her blockades of France, or part of France, [such as that from the Elbe to Brest, &c.] of a date anterior to that of the aforesaid decree.

I have the honor to be, &c.

JOHN ARMSTRONG.

Extract of a letter from General Armstrong to the Secretary of State.

PARIS, *January 28, 1810.*

In conformity to the suggestions contained in your letter of the 1st of December, 1809, I inquired whether, if Great Britain revoked her blockades of a date anterior to the decree, commonly called the Berlin decree, His Majesty the Emperor would consent to revoke the said decree? To which the Minister answered, that "the only condition required for the revocation, by His Majesty, of the decree of Berlin, will be a previous revocation by the British Government of her blockade of France, or part of France [such as that from the Elbe to Brest, &c.] of a date anterior to that of the aforesaid decree; and that if the British Government would then recall the Orders in Council which had occasioned the decree of Milan, that decree should also be annulled."

RUSSIA, &c.—BLOCKADE OF THE BALTIC.

[Communicated to the House, January 12, 1810.]

Gentlemen of the House of Representatives:

I communicate to the House of Representatives the report of the Secretary of State on the subject of their resolution of the 3d instant.

JAMES MADISON.

JANUARY 12, 1810.

DEPARTMENT OF STATE, *Jan. 14, 1810.*

The Secretary of State has the honor to report to the President, in conformity to the resolution of the House of Representatives of the 3d instant, that no information has been received at the Department of State relative to the blockade of the ports of the Baltic by France, and of the exclusion of neutral vessels by Russia, Sweden, and Denmark. As it is presumed, however, that the enclosed papers, the first a translation of an "Ukase" of the Russian Government, dated on the 14th of May, 1809, and the second a transla-

tion furnished to this Department on the 10th of January last, by the Chargé des Affaires of Denmark, of such parts of the instructions given to the privateers of that country on the 14th of September, as were supposed to be most interesting to neutrals, may have some connexion with the object of the resolution, they are respectfully submitted.

R. SMITH.

ST. PETERSBURG, *May 14, 1809.*

It is known to the whole world with what firmness Russia has long protected the neutral trade during the wars of the European Powers. It is known with what courage she has defended the interests of the nations trading in peace from the flames of war. Following this invariable principle, also, during the present rupture with England, she fully relied that illicit practices would not be admitted in the trade with nations in amity with us. But as we have learned by experience during the last year that the enemy found means, through the medium of neutral vessels, of obtaining the produce he required, and of exchanging his own, to his aggrandizement, whereby we were lately necessitated to order two ships to be confiscated; for these causes, finding it indispensable to take measures for the prevention of various frauds and artifices, we command,

1st. That ships arriving in our ports shall prove the neutrality of the property by the following documents, viz: *Of the ship*, by the pass, the ship's register, the muster-roll, and the log-book. *Of the cargo*, by the charter party, the bills of lading, the declaration certificates of origin, if all the cargo or part thereof belongs to the captain; and by the invoices, if the ship comes from America or India, or if she be destined for those countries. If any of these documents cannot be produced by the captain, such ship shall be sent out of port without being permitted to unload.

2d. Ships loaded in part with goods which shall be proved to be the produce or manufacture of an enemy's country, shall be detained. The goods shall be confiscated, and sold by public sale for the benefit of the Crown. If more than half of the cargo consists of such goods, then not only the cargo, but the ship also shall be confiscated.

3d. A pass granted by a neutral, friendly, or allied Power, shall not protect a captain if he be discovered that he has acted in opposition thereto; nor if the ship bear a name in the pass different from that designated in the other documents, unless proofs of the change of the name, certified by some established authority of the place whence the ship comes, compose part of the documents of the said ship, and be presented to the custom-house. In such case, the captain is not to be criminated for the difference in the name of the ship.

4th. The pass shall not be considered as valid, should it be discovered that the ship receiving such pass was not, when the pass was given, in a port of the Power giving the pass.

5th. If there be found on board of any ship a

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supercargo, a captain, or more than one-third of the crew, subjects of an unfriendly Power, or if the ship have not a muster-roll certified by the supreme authority of such neutral place as the ship comes from, such ship and cargo shall be confiscated, and the crew set at liberty.

6th. If it be discovered that the ship's pass presented by the captain has been altered or forged, such ship and cargo shall be confiscated; the captain shall be prosecuted and proceeded with as directed by the laws regarding forgers of documents, and the crew set at liberty.

7th. If duplicate documents be discovered on board of a ship, with different destinations, such ship and cargo shall be confiscated. If the captain endeavor to justify himself by asserting the total loss of his papers, and should not procure them, such ship and cargo shall be detained, and a reasonable time, considering the distance of the place, shall be granted for the producing of them, if the captain desires it; on the contrary, should the captain be unable to wait, the ship, with the cargo, shall be immediately sent out of port. But should the captain, on the expiration of the time granted him, not produce the papers, the ship and cargo shall be confiscated.

8th. No enemies' built ships shall be acknowledged as neutral or friendly, unless there shall be among the documents of such ship an act, certified by some public court, proving that the sale or transfer was made before the declaration of war. In any other case, the ship and cargo shall be confiscated.

9th. If the proprietor or master of the ship, being born subjects of an unfriendly Power, should have a pass from a neutral or friendly Power, such pass shall not protect them until they prove that they became subjects of, and settled in the territories of, a neutral or friendly Power before the declaration of the war; otherwise, they shall be sent away with their ships, without being permitted to take return cargoes.

COUNT ROMANZOFF.

Regulations for vessels commissioned as Privateers,
dated

RENSBURG, September 14, 1807.

Section 1. Defines the qualifications for privateers.

2. Form of commission.

3. Regulates the security to be given by the owner.

4. It is the duty of every one, thus lawfully commissioned, to take and bring in for adjudication all ships and vessels belonging to the British Crown or to British subjects, and he may also bring in for examination all such ships and vessels as may render themselves suspicious by a deviation from some of those in section nine, given definitions, and in whose papers he finds a founded suspicion that they do not belong to subjects of friendly or neutral Powers; and he may further bring in for examination all such ships and vessels as, at the commencement of hostilities, were British property, notwithstanding they

may have been, by later purchase or contract, made over to subjects of other nations; except by regular papers, passports, and sea-letters, it satisfactorily appears that they have been in some friendly or neutral port after they had ceased to be British property.

5. Orders respect to be paid to the territory of neutral or friendly Powers, and such territory is considered to extend to one sea league from the land.

6. As we recognise it to be a fundamental principle, never to be departed from, that a free ship makes the goods on board free also, so do we strictly forbid our cruisers, commissioned as privateers, to detain any vessel belonging to friendly or neutral Powers, be the cargo whose it will, provided the ship's papers are in proper order, and no part of the cargo contraband of war, bound to a port or place under the British dominion.

7. As free ships make free the goods on board, so do enemy's ships make the cargo hostile, unless it clearly appears that they are the property of neutrals, loaded before the commencement of the war, or before the war was known at the place at which it was taken on board, and before the papers of the vessel were expedited.

8. The papers which, according to the sixth article, ought to be on board in due form, are (a,) a sea-pass; (b,) the proof of the carpenter as to the building of the vessel; (c,) a register and certificate of measurement; (d,) a muster-roll; (e,) a clearance; (f,) a charter-party or bills of lading; (g,) and, for such vessels as have passed the Sound, a clearance from Elsinore. Every ship or vessel which has so passed, and is found without such clearance, will be condemned as lawful prize to the captor.—*Royal Plaiat dal. Copenhagen, 14th November, 1807.*

9. As good prize will be considered all vessels which belong to the Crown of Great Britain or to British subjects, in whatever part of the world they reside. Further, shall, after due investigation, according to the particular circumstances of the case, be condemned as good prize: (a,) all vessels which shall be found at sea without a sea-pass; or (b,) when the pass or other documents are found to be false; (c,) when they are found in a course different from that expressed in their pass, unless forced thereto by storms, bad weather, pursuit of an enemy, or other accidents or distress, which must be proved by the journal; (d,) when loaded wholly or in part with contraband of war, which, on investigation, shall be destined to a British port; (e,) when a vessel is detained, or about to be detained, by a privateer, offers resistance; (f,) such ships or vessels as shall approach a squadron blockading a Danish town, port, or province, in order to trade with it or to carry it provisions.

10. Enumerate the articles which constitutes contraband of war.

11. Directs the conduct to be observed at sea towards ships belonging to neutral or friendly Powers; the privateer, in case of suspicion only, to board such vessels.

12. The crews of privateers are forbidden to

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break open any drawer, trunk, or package, or any part of the cargo; but, in case of suspicion of contraband of war, they may require of the master of the neutral ship to open himself, with the assistance of his own people, unless he should prefer to be carried into port for examination. Prescribes penalty for acting contrary.

13. Conduct to be observed towards vessels detained until they reach port.

14. All prizes to be sent into Danish or Norwegian ports, under the penalty of forfeiture of the commission; distress of weather, pursuit of an enemy, &c., excepted.

15. Regulates the examination and first proceedings in the case of a vessel carried in, and of the officer whose duty it is to attend thereto; the act of examination duly attested, and a lawful inventory of the cargo and ship to be sent to the prize court.

16. Regulates the duty of the prize court, &c. In giving judgment, all circumstances to be duly considered; but no other letter or papers to be produced as evidence against the vessel or cargo, except such as were actually found on board at the time of its detention.

17. Provides a prize court for every province in Denmark and Norway, and one for each of the Duchies.

18. Respect appeals to the High Court of Admiralty.

19. When a privateer detains a vessel without any of those justifiable causes before mentioned, all reasonable expenses and damages arising therefrom, must be made good by such privateers; but if the detained vessel shall not be furnished with regular papers, the capturing vessel shall be acquitted from all the consequences of such detention.

20. Provides for the sale at public auction of all prizes condemned, deducting from the proceeds of the sale one per cent., for the use of the marine hospital at Copenhagen; exempts from duty, tonnage, and all other charges, vessels, and cargoes detained.

21. Directs the crews of vessels condemned as a prize, if British subjects, to be sent to the nearest fortress, there to be considered as prisoners of war; and such as are subjects of friendly or neutral Powers, to be delivered to the Consuls of their respective nations.

22. Directs a copy of these regulations to be on board every privateer.

Given in our city and fortress of Rensburg, the 14th September, 1807.

DENMARK.

[Communicated to the House, January 12, 1810.]
To the House of Representatives of the United States:

I communicate to the House of Representatives the report of the Secretary of State on the subject of their resolution of the 6th of December last.

JAMES MADISON.

JANUARY 12, 1810.

DEPARTMENT OF STATE, Jan. 12, 1810.

The Secretary of State respectfully reports to the President of the United States, agreeably to a resolution of the House of Representatives of the 6th of December, 1809, that the enclosed papers, from A to E, contain, in substance, the information which has been received at this office, respecting seizures, captures, and condemnations of ships and merchandise of the citizens of the United States, under the authority of the Government of Denmark.

A. A memorial of sundry Americans at Christiansand to the President of the United States.

B. Translation of an extract of a letter from Peter Isaacsen, lately appointed Consul of the United States at Christiansand, to the President of the United States, dated August 11, 1809.

C. List of American vessels, which have been carried into the ports of Denmark and Norway, received from Mr. Saabye, Consul of the United States at Copenhagen.

D. Extract from a letter of Mr. Saabye to the Secretary of State, dated August 1, 1809.

E. Resolutions and memorial of merchants of Philadelphia.

The Secretary also respectfully reports to the President, that information had been received at this office, within the period embraced by the resolution referred to, of the capture of American vessels by those of Great Britain, under various pretexts, viz: for dealing by bills of exchange, in an enemy's country, for colonial produce, violating the British Orders in Council of January and November, 1807; for infringing the blockade of Martinique; for being engaged in the Vera Cruz and colonial carrying trade, and of the seizure of some American vessels at Curaçoa, at Ceylon, and in China, for reasons not distinctly stated. It is to be observed, however, that the papers in this office afford but a very imperfect account of the British captures of American property, and it is for this reason that a detail is not attempted in this report, more particularly as no official accounts have been received on which to ground one.

The Secretary begs leave likewise to state to the President that within the period embraced by the resolution, property to a considerable amount, belonging to citizens of the United States, has been captured and seized by the French, for violations of the Berlin and Milan decrees, and under other pretexts; that, in some instances, the merchant vessels of the United States have been burnt at sea by French cruisers, and, in others, the indemnity of the vessels and property has been purchased by the means of bills of exchange, drawn by the captains of the American vessels upon their owners, at a rate imposed by the captors. The accompanying statement of American vessels, condemned by the Imperial Council of Prizes at Paris, from the 18th December, 1806, to the 26th May, 1809, received from Mr. Warden, acting as Consul of the United States at Paris, more particularly explains the grounds of French captures.

It is to be observed, however, as to many of these

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acts, that they can no otherwise be considered as having been done under the authority of those Governments, than that the vessels committing them were under their flags.

Respectfully submitted.

R. SMITH.

A Memorial from sundry Americans at Christiansand, July, 19, 1809.

CHRISTIANSAND, *July 19, 1809.*

To his Excellency, JAMES MADISON, Esq. President of the United States of North America: the memorial of the undersigned captains and supercargoes, citizens of the United States, respectfully sheweth:

That in the prosecution of our several voyages, undertaken with the sanction of our Government, and consequently (as we are bound to believe) not only conformably to its laws, but also fair and legal, as they respect the treaties existing between the United States and the Court of Denmark; and although we had severally attached to our ships all those official documents required by our laws, which were, at the time of our sailing from the United States, issued by the several collectors, and other equally constituted authorities, for the purpose of proving the national character of our vessels and cargoes; that, nevertheless, we have been (whilst alike unsuspecting of insult or injury, and unprepared to resist either,) forcibly intercepted in the prosecution of our voyages, by the privateers of Norway, acting under commissions from His Majesty the King of Denmark, and brought into the several ports of this Kingdom, to the great injury of the citizens of the United States, whose property we represent, and violation of those rights, due to neutrals in general, but more especially to us, whose Government uniformly has respected with the most sacred fidelity the rights of others.

Your memorialists beg leave to call your Excellency's attention to the annexed list, by which you will observe, that — vessels, with cargoes to the amount of — dollars, exclusive of freight and charges, have been detained here, some nearly three months, the others less, as will appear from said list; and that several have been condemned under pretexis the most degrading to our national flag and character, and apparently the most destitute either of reason or justice. As individuals, we have experienced a degree of incivility the more distressing, as we have seen the captain of a vessel bearing the English flag, an avowed enemy of the country, when captured and brought in here, meet with treatment in every respect different, and even respectful. In some cases, where the most trifling inaccuracy could not be discovered in our ships' papers, we have found them, when out of our possession, mutilated and defaced. In some instances, our people have been tempted with bribes, and threatened with punishments, to induce their giving false testimony against our property. In those cases which have been adjudicated, all the proceedings are in the Danish language, (with which your memorialists are unacquainted,) and we have been invariably refused

either a copy of those proceedings, or even of the particular charges against us, until what they call the trial was over, and the judgment passed, by which the property of citizens of the United States was condemned. It is not the least of our present misfortunes, that, in addition to the detention and condemnation of our property, our several crews are thrown upon us for support, without any other provision made for them by this Government than that of their entering into its service on board of their national gunboats, or privateers, at the same time that our ships' provisions are in many cases almost, and in others altogether, exhausted, and the impoverished state of the country such, that a supply for the approaching winter is at least precarious, if not absolutely unobtainable.

Your memorialists beg leave to lament, that, in the Kingdom of Norway, the United States have not either Consul or commercial agent to whom, in circumstances so novel, unprecedented, and distressing, we could apply, either for pecuniary aid, advice, or protection; and that our distance from Copenhagen is so great, and the communication, in consequence of the war with Sweden and England, so precarious and uncertain, that Mr. Saabye, our Consul at that Court, has it not in his power, even if he were disposed to render us that aid which we require under those circumstances; and because Mr. Saabye, although well apprized of our situation, has not taken those steps which were certainly in his power to alleviate them. We have thought it our duty, and for our interest, to solicit the friendship and protection of Peter Isaacsen, Esq. of this place, and to which he has generously acceded; in consequence of which, we have appointed him, by an instrument, (a copy of which is annexed,) Agent for the United States in this place, until your Excellency's pleasure is known; and we cannot omit this opportunity of recommending this gentleman as possessing that honor, talent, and integrity, and independence, both of sentiment and fortune, which in a distinguished manner qualifies him for your Excellency's appointment as Consul for the United States in the Kingdom of Norway.

Your memorialists have further to represent, that the apparent breach of hospitality and faith, on the part of the Court of Denmark, of which we now complain, is assigned by those constituted powers, with whom they have had an opportunity of conversing, to circumstances which your memorialists are fearful are too true, namely, that many of our citizens have, especially during eighteen months last past, been engaged in a commerce, violating alike the laws of the United States and those of the belligerents, and which has been carried on under false papers procured in England, and under the mask of the American flag. Of the truth of which allegation, your memorialists have to their sorrow seen one proof in the case of the ship *Romulus* of Boston, which was brought into this port, and very properly condemned in last May. It is further alleged, and we think it not improbable, that latterly the

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English have built their ships as much as possible to resemble the Americans, and with them have been carrying on an extensive trade, especially to Archangel and the Baltic, under the American flag, and with American papers of English manufacture. How far these unwarrantable frauds may have been practised, and how they are in future to be prevented, will doubtless engross your Excellency's attention, and the more especially as this is made a ground of suspicion, operating against all American vessels, and on the strength of which (we are led to believe) those condemnations which have taken place here are almost exclusively founded.

Your memorialists further represent, that all the ports from Bayonne to the Weser (as we understand) are in a state of the most rigorous blockade; from which your memorialists infer, that, as the activity of the privateers here evidently increases with the growing extent of their depredations on our unprotected property, a great proportion of those ships which were bound for, but cannot enter, the ports of Holland, while seeking for a place of security and a market in Sweden and the Baltic, will add alarmingly to our unfortunate number, and increase the amount of property here (already much too great for the faint hopes your memorialists entertain of its recovery) to a sum not merely affecting the interests of individuals, but such as will be alarmingly felt in the Treasury of the United States.

Your memorialists would further represent, that in all the cases of condemnation which have taken place here, the captain, representing the property, has appealed to the High Court of Admiralty at Christiana; and as a strong demonstration of the expectation of the people of Norway, and the disposition of its Government, in all those cases where the court have declared the property neutral, the voyage fair, and the capture of course illegal; and although the injured American has nevertheless been adjudged to pay the captor from four to six hundred rix-dollars, for proving his innocence and neutrality, yet the captors have also appealed to the same high court, without being compelled by law to give us bonds for the consequences of such further detention.

Your memorialists doubt not, nor can your Excellency doubt, after an examination of the accompanying document, that every American vessel in Norway, together with those who may be expected, will share in the same fate; but when the appeals will be ultimately tried, whether in one month, or in one year, or, peradventure, the next century, your memorialists have not, with all their anxiety to ascertain a fact so much involving their interests, been able to learn.

Finally, your memorialists beg leave to assure your Excellency, that, unwilling to trouble or alarm our Government until every means in our power had been tried, which could tend to render this very unpleasant alternative unnecessary, we have applied repeatedly to our Consul at Copenhagen, who answers that he feels for our situation, but could not render us any assistance, but

observed that the higher courts of Norway would not fail to do us justice. To the laws of Norway we have appealed, but with the hopes already expressed in this memorial. Thus situated, we forbear to color a simple representation, of itself so gloomy and degrading, that, except in this single instance, will at all apply to the history of the civilized world, to the citizens of any free, brave, and powerful nation. Strangers, therefore, in a foreign country, dispossessed of our property, in the power of a people who have arrested our vessels and cargoes, who if they know, do not appear to respect those salutary laws recognised for ages, and necessary for the safe and honorable intercourse of mankind, with upwards of four hundred of our seamen depending on us for protection and bread, without having the ability to extend to them the one, or procure for them the other—we supplicate most earnestly and respectfully your Excellency's interposition in such a manner as your wisdom shall approve; and we do this with the fullest confidence that such measures as your Excellency may adopt for the recovery of our property, the security of our rights, and the vindication of our national honor, will be as distinguished for their promptitude, firmness, and decision, as the treatment of which we complain is remarkable for its novelty, severity, and injustice.

We beg your Excellency to accept the assurance of our respectful and high consideration.

[Signed, &c.]

B.—Translation of an extract of a letter from Peter Isaacsen to the President of the United States.

AUGUST 11, 1809.

At a time at which nearly all the European Powers are engaged in war, and not the colors of a single nation are respected; at which privateering, molestation, and capturing have become as customary as they, in times of peace, were considered as against the laws of nations, and abhorred by all civilized States; at which commerce and navigation are everywhere interrupted, or, rather to say, destroyed; at such a time, it has happened, after the navigation of the United States of America was renewed, that several American merchant ships, bound from thence to the north of Europe, have been detained on their voyage by Norway privateers in the North Seas, and carried into ports of Norway, where, at the present time, are already the number of twenty-six of such vessels, partly here at Christiansand, and partly in the neighboring harbors.

Under these circumstances, the captains of those vessels, as well as the supercargoes, have found it expedient to choose a general commissioner, who was able to direct their business here, give them advice and assistance during their stay here, and, in the whole, who was able to fulfil all the functions of a Consul. I am unanimously elected by them, being a merchant and Danish citizen at this place.

Persuaded of the most perfect neutrality of the United States of America with all the belligerent Powers and that its Government always has

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kept a friendly connexion and understanding with my Sovereign, the King of Denmark, and his dominions; under the supposition that American subjects neither can nor will permit themselves any actions contrary to the positive laws, and which are not consistent with the most perfect neutrality; in consequence of this, I found myself in duty bound not to deny them that assistance of which they stand so much in need, in a country where they were altogether strangers, and deprived of the disposal both of their vessels and cargoes.

These motives have determined myself, for the first, to annex the functions of a Consul and Commissioner, which has enabled me, to my great satisfaction, to find that my expectations, with regard to the lawful business of the American subjects and the justice of their cases, have not been entirely unfounded, and, in behalf of this, I do myself the honor to give the following submissive account.

Twenty-six vessels have been brought in here, of which eighteen have already undergone trial. Of these, eight have been cleared, and ten have been condemned as lawful prizes, for reasons that, in the ship's papers, have been found suspicious circumstances, viz:

The erasing or altering of the date in the sea-letter, the want of the signature of the Secretary of State in the sea-letter, and that they not altogether have been conformable with each other, &c.

And further, it has been observed that, among the several ships' documents, has every where been wanting the charter-party, which, according to the regulations for privateers, are ordered to be found on board of every neutral vessel, which want has occasioned that the court of prizes has awarded the privateers to the expenses of the captures.

Those different sentences have produced the appeals to the High Court of Admiralty at Christiana, established there for the kingdom of Norway, either by the captains whose vessels have been condemned, or by the privateers against those vessels which have been liberated, which procedures will occasion further delay, expenses, and loss for the captured.

I hope that the most, if not all, the cases appealed to the High Court of Admiralty, will be decided in favor of the American captains; in consequence of this, I have proposed to the Government, if the privateers who have appealed, being mostly but poor pilots and fishermen, ought not to be ordered to give security for the unnecessary delay, and loss, and damages derived from it, and which the American captains further might have to suffer; or, if this security was not given, then it might be permitted them immediately to proceed on their voyages; but I have received neither answer nor resolution thereupon.

In the present situation of things exists, consequently, no remedy to lighten the burden of the captains, or procure clearances for their ships and cargoes, but to wait for the success of the

expected resolution upon my proposal, or for the event of the sentence of the High Court of Admiralty in appealed cases; in the mean time, I shall not fail to procure the cases of the captains pleaded, and in the whole observe their interest as well as possible.

Permit me further to make the following observations:

In the same manner as the treacherous behaviour of England towards Denmark has occasioned the war between these two Powers, in the same manner has our Government considered privateering as one of the most useful means to hurt the enemy in his navigation and commerce. At the same time, it gives a material interest to the privateers themselves, especially in a period at which our own navigation and commerce lay at rest, and the mariners have no other means of getting their living; consequently, the privateers can in fact not be blamed to make use of their privileges and permission, by every opportunity, and I might dare to say that the capturing of neutral vessels, according to political principles, might be excused, having had several instances, that vessels of such nations, which, conforming to the famous Berlin decree, ought not to sail for England, or to be in any commercial connexion with it, nevertheless have, by the help of fictitious and counterfeited papers, favored the commerce of that country, especially since the commencement of war between Denmark, by carrying those articles to England of which it stood in absolute want to keep up the war.

It is therefore nearly adopted as a common principle, not to respect the colors of any nation on the ocean, under the supposition that as well the colors as the documents might be fictitious and false, and that the cargoes might be, direct or indirect, destined for the enemies of Denmark. This principle has been the more justified by having found, at the examination of several captured vessels, that they were not only provided with a double set of papers, but sailed, besides, under British licenses.

[Here follows a list of American ships, which have been carried in by privateers.]

D.—Extract of a letter from Mr. Saabye to the Secretary of State.

August 1, 1809.

I am fortunate enough to be able to inform you of a Royal order given to-day, by which all privateers are ordered back into port, and all privateering prohibited, except about Heligoland.

E.—Resolutions of several merchants, &c. of Philadelphia, respecting Danish captures.

PHILADELPHIA, October, 19, 1809.

At a meeting of the merchants and underwriters of this city, interested in the vessels and property captured in Europe by Danish cruisers, held this day at the Merchants' Coffee House, the following resolutions were unanimously agreed to:

Maritime Jurisdiction.

Resolved, That a committee be appointed to prepare a representation to the President of the United States, of the facts and circumstances attending the late enormous and alarming depredations committed by Danish cruisers on the property of citizens of the United States lawfully navigating the high seas, and actually destined for ports in Denmark, Sweden, or Russia:

And of the vexatious proceedings and unjust condemnation of such property, in courts acting under the authority of Denmark, not only in violation of the law of nations, (in the maintenance and defence of which that Government has hitherto been distinguished,) but in contempt of those documents and evidences of neutrality, which have hitherto been deemed sufficient:

Respectfully requesting that such measures may be speedily adopted as the wisdom of the Executive may devise, and the magnitude and emergency of the case require:

Resolved, That the committee be instructed to collect all the testimony which the nature of the case may require, or the parties interested may furnish, together with satisfactory evidences of the neutrality of the property, and the other documents which accompanied it in each case, with the nature and amount of their several claims:

That the memorial be signed by the parties interested, and, together with a certified copy of the proceedings of this meeting, (signed by the chairman,) be forwarded, without delay to the Secretary of State, to be laid before the President:

That the Chairman, T. Fitzsimons, W. Jones, Henry Pratt, Stephen Girard, and Charles Pleasants, be a committee.

THOS. FITZSIMONS, *Chairman*.

TO JAMES MADISON, President of the United States; the memorial of the subscribers, merchants and underwriters of the city of Philadelphia, respectfully represents:

That, during the present year, and since the expiration of the embargo laws, your memorialists have fitted out and loaded or insured several vessels with valuable cargoes, destined for the ports or countries in amity with the United States, and not known to be under blockade or any restriction that would render the admission of American vessels hazardous; that some of those vessels having departed from the United States previous to the proclamation which took off the restriction from the ports of the United Kingdoms and their dependencies, took clearances for a permitted port in Europe, but were actually destined for a port in Russia, or some one in Denmark or Sweden.

That, notwithstanding their being furnished with all the documents and evidences of the neutral character of both vessels and cargoes, in every instance in which they have been met with by Danish cruisers they have been captured and sent into the ports, under the dominion of that nation, and, with their cargoes, have been condemned, (with very few exceptions;) and even when ac-

quitted, the sentences have been appealed from, so as to prevent a restitution of the property, and at the last advices the whole was detained to abide the sentence of the superior tribunals. That, from the destruction or dilapidations of the papers by the captors, as well as from other circumstances, your memorialists have too much reason to apprehend an unfavorable issue of the cases; and that, if the property should be distributed, no subsequent determination would enable them to recover its value, the captors being, as they understand, generally without property or responsibility.

That, besides the vessels and cargoes enumerated and specified in the schedule transmitted by your memorialists to the Department of State, there is certain information that a great number of vessels belonging to other ports of the United States have been captured, and are under like circumstances with those of your memorialists, and likely to share the same fate.

Under these circumstances, and considering the magnitude of the object, your memorialists presume to hope for the interference of Government in their behalf, by dispatching a public vessel, and a person to represent the case to the Danish Government, or such other measures as the wisdom of the President may deem proper, which with the proofs ready to be adduced by your memorialists, warrant the expectation that the property would be restored.—[Signed, &c.]

[Here follows a statement of American vessels condemned by the Imperial Council of Prizes at Paris, from the 18th of December, 1806, to the 26th of May, 1809.]

MARITIME JURISDICTION.

[Communicated to the House, February 1, 1810.]

To the House of Representatives of the United States:
I lay before the House a report of the Secretary of the Treasury, conformably to their resolution of January 18, 1810.

JAMES MADISON.

FEBRUARY 1, 1810.

TREASURY DEPARTMENT, *Jan. 30, 1810.*

SIR: I have the honor, in conformity with the resolution of the House of Representatives of the 18th instant, to transmit copies of the instructions issued at several times by this Department, with respect to foreign armed ships or vessels within the waters of the United States.

I have the honor to be, with the highest respect, your obedient servant,

ALBERT GALLATIN.

The PRESIDENT of the U. States.

Instructions.

No. 1.

TREASURY DEPARTMENT, *April 23, 1793.*

SIR: You will find enclosed the copy of a proclamation lately issued by the President of the

Maritime Jurisdiction.

United States, respecting the war at present existing between certain Powers of Europe therein named.

The preservation of the peace of the country is so very important to its interests, and that must depend so materially upon the conformity of the conduct of our citizens to the spirit which is manifested by the proclamation, that it is deemed particularly interesting to receive the earliest and most exact advice of every appearance in any quarter which may seem to contravene the intention of the Government in this respect.

I therefore request that you will keep an observant eye upon whatever passes in your district having reference to the object of the proclamation; and, if anything comes under your notice inconsistent with it, that you will immediately communicate it to the Attorney of the United States for the judicial district comprehending your district, and to me.

The building of vessels calculated and fitted for war is a circumstance which will merit particular attention, as much danger may be apprehended from that quarter. I am, sir, &c.

ALEXANDER HAMILTON.

The COLLECTOR of Customs.

No. 2.

TREASURY DEPARTMENT, May 30, 1793.

SIR: It being the opinion of the Executive that there is no general law of the land prohibiting the entry and sale of goods captured by foreign Powers at war, and, consequently, that such entry and sale are lawful, except in cases where a prohibition is to be found in the treaties of the United States, it becomes the duty of this Department to make known to you that the entry of vessels captured and brought into our ports by the ships of war and privateers of France and of their cargoes, is to be received in the same manner, under the same regulations, and upon the same conditions, as that of vessels and their cargoes which are not prizes. One of these conditions is, of course, the payment or securing the payment of the duties imposed by law on goods, wares, and merchandise imported, and on the tonnage of ships and vessels. But the same privilege will not extend to any of the other belligerent Powers, being contrary to the seventeenth and twenty-second articles of our treaty with France. I am, &c.

ALEXANDER HAMILTON.

To COLLECTORS of Customs.

No. 3.

Proclamation of Neutrality.

Communicated to Congress December 3d, 1793, and referred to in the Message of the President of the United States of that date, of which the following is an extract:

"As soon as the war in Europe had embraced those Powers with whom the United States have the most extensive relations, there was reason to

apprehend that our intercourse with them might be interrupted, and our disposition for peace drawn into question by the suspicions too often entertained by belligerent nations. It seemed, therefore, to be my duty to admonish our citizens of the consequences of a contraband trade, and of hostile acts to any of the parties; and to obtain, by a declaration of the existing legal state of things, an easier admission of our right to the immunities belonging to our situation. Under these impressions, the proclamation, which will be laid before you, was issued.

"In this posture of affairs, both new and delicate, I resolved to adopt general rules, which should conform to the treaties, and assert the privileges of the United States. These were reduced into a system, which will be communicated to you. Although I have not thought myself at liberty to forbid the sale of the prizes, permitted by our treaty of commerce with France to be brought into our ports, I have not refused to cause them to be restored when they were taken within the protection of our territory, or by vessels commissioned or equipped in a warlike form within the limits of the United States."

By the President of the United States of America.

A PROCLAMATION.

Whereas it appears that a state of war exists between Austria, Prussia, Sardinia, Great Britain, and the United Netherlands, of the one part, and France on the other; and the duty and interest of the United States require, that they should with sincerity and good faith adopt and pursue a conduct friendly and impartial toward the belligerent Powers:

I have, therefore, thought fit by these presents to declare the disposition of the United States to observe the conduct aforesaid towards those Powers respectively; and to exhort and warn the citizens of the United States carefully to avoid all acts and proceedings whatsoever, which may in any manner tend to contravene such disposition.

And I do hereby also make known, that whosoever of the citizens of the United States shall render himself liable to punishment or forfeiture under the law of nations, by committing, aiding, or abetting hostilities against any of the said Powers, or by carrying to any of them those articles which are deemed contraband by the modern usage of nations, will not receive the protection of the United States, against such punishment or forfeiture; and further, that I have given instructions to those officers, to whom it belongs, to cause prosecutions to be instituted against all persons who shall, within the cognizance of the courts of the United States, violate the laws of nations, with respect to the Powers at war, or any of them.

In testimony whereof, I have caused the seal of the United States of America to be affixed [L. s.] to these presents, and signed the same with my hand.

Done at the city of Philadelphia, the twenty-

Maritime Jurisdiction.

second day of April, one thousand seven hundred and ninety-three, and of the Independence of the United States of America the seventeenth.

GEORGE WASHINGTON.

By the President:

TH. JEFFERSON.

Instructions to the Collectors of the Customs.

PHILADELPHIA, August, 4, 1793.

SIR: It appearing that repeated contraventions of our neutrality have taken place in the ports of the United States, without having been discovered in time for prevention or remedy, I have it in command from the President to address to the collectors of the respective districts a particular instruction on the subject.

It is expected that the officers of the customs in each district will, in the course of their official functions, have a vigilant eye upon whatever may be passing within the ports, harbors, creeks, inlets, and waters, of such district, of a nature to contravene the laws of neutrality, and, upon discovery of anything of the kind, will give immediate notice to the Governor of the State, and to the attorney of the judicial district comprehending the district of the customs within which any such contravention may happen.

To assist the judgment of the officers on this head, I transmit herewith a schedule of rules concerning sundry particulars which have been adopted by the President, as deductions from the laws of neutrality, established and received among nations. Whatever shall be contrary to these rules will, of course, be to be notified as above mentioned.

There are some other points which, pursuant to our treaties, and the determination of the Executive, I ought to notice to you.

If any vessel of either of the Powers at war with France should bring or send within your district a prize made of the subjects, people, or property of France, it is immediately to be notified to the Governor of the State, in order that measures may be taken, pursuant to the 17th article of our treaty with France, to oblige such vessel and her prize, or such prize, when sent in without the capturing vessel, to depart.

No privateer of any of the Powers at war with France, coming within a district of the United States, can, by the 22d article of our treaty with France, enjoy any other privilege than that of purchasing such victuals as shall be necessary for her going to the next port of the Prince or State from which she has her commission. If she should do anything beside this, it is immediately to be reported to the Governor, and the attorney of the district. You will observe, by the rules transmitted, that the term privateer is understood not to extend to vessels armed for merchandise and war, commonly called with us letters of marque, nor, of course, to vessels of war in the immediate service of the Government of either of the Powers at war.

No armed vessel which has been or shall be originally fitted out in any port of the United

States, by either of the parties at war, is henceforth to have asylum in any district of the United States. If any such armed vessel shall appear within your district, she is immediately to be notified to the Governor, and attorney of the district, which is also to be done in respect to any prize that such armed vessel shall bring or send in. At foot is a list of such armed vessels of the above description as have hitherto come to the knowledge of the Executive.

The purchasing within, and exporting from the United States, by way of merchandise, articles commonly called contraband, being generally warlike instruments and military stores, is free to all the parties at war, and is not to be interfered with. If our own citizens undertake to carry them to any of those parties, they will be abandoned to the penalties which the laws of war authorize.

You will be particularly careful to observe, and to notify as directed in other instances, the case of any citizen of the United States who shall be found in the service of either of the parties at war.

In case any vessel shall be found in the act of contravening any of the rules or principles which are the ground of this instruction, she is to be refused a clearance until she shall have complied with what the Governor shall have decided in reference to her. Care, however, is to be taken in this, not unnecessarily or unreasonably to embarrass trade, or to vex any of the parties concerned.

In order that contraventions may be the better ascertained, it is desired that the officer who shall first go on board any vessel arriving within your district, shall make an accurate survey of her then condition as to military equipment, to be forthwith reported to you; and that, prior to her clearance, a like survey be made, that any transgression of the rules laid down may be ascertained.

But, as the propriety of any such inspection of a vessel of war in the immediate service of the Government of a foreign nation is not without question in reference to the usage of nations, no attempt is to be made to inspect any such vessel, till further order on the point.

The President desires me to signify to you his most particular expectation, that the instruction contained in this letter will be executed with the greatest vigilance, care, activity, and impartiality. Omissions will tend to expose the Government to injurious imputations and suspicions, and proportionably to commit the good faith and peace of the country—objects of too much importance not to engage every proper exertion of your zeal. With consideration, I am, sir, &c.

ALEXANDER HAMILTON.

1. The original arming and equipping of vessels in the ports of the United States, by any of the belligerent parties, for military service, offensive or defensive, is deemed unlawful.

2. Equipments of merchant vessels by either of the belligerent parties, in the ports of the Uni-

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ted States, purely for the accommodation of them as such, is deemed lawful.

3. Equipments in the ports of the United States, of vessels of war in the immediate service of the Government of any of the belligerent parties, which, if done to other vessels, would be of a doubtful nature, as being applicable either to commerce or war, are deemed lawful; except those which shall have made prize of the subjects, people, or property of France, coming with their prizes into the ports of the United States, pursuant to the 17th article of our Treaty of Amity and Commerce with France.

4. Equipments in the ports of the United States, by any of the parties at war with France, of vessels fitted for merchandise and war, whether with or without commissions, which are doubtful in their nature, as being applicable either to commerce or war, are deemed lawful; except those which shall have made prize, &c.

5. Equipments of any of the vessels of France, in the ports of the United States, which are doubtful in their nature, as being applicable to commerce or war, are deemed lawful.

6. Equipments of every kind, in the ports of the United States, of privateers of the Powers at war with France, are deemed unlawful.

7. Equipments of vessels in the ports of the United States, which are of a nature solely adapted to war, are deemed unlawful; except those stranded or wrecked, as mentioned in the 18th article of our treaty with France, the 16th of our treaty with the United Netherlands, the 9th of our treaty with Prussia, and, except those mentioned in the 19th article of our treaty with France, the 17th of our treaty with the United Netherlands, the 18th of our treaty with Prussia.

8. Vessels of either of the parties, not armed, or armed previous to their coming into the ports of the United States, which shall not have infringed any of the foregoing rules, may lawfully engage or enlist therein their own subjects or citizens, not being inhabitants of the United States; except privateers of the Powers at war with France, and except those vessels which shall have made prize, &c.

No. 4.

TREASURY DEPARTMENT, Aug. 22, 1793.

SIR: Though it was not expressly said, yet I presume it would have been understood as clearly implied in the instruction contained in my circular of the 4th instant:

That the liberty to enter vessels and their cargoes brought in as prizes by the armed vessels of France, was not, after the receipt of that letter, to include vessels and cargoes taken and brought or sent in by armed vessels originally fitted out in the ports of the United States while remaining in possession of their captors, it will follow that if an attempt shall be made to land goods from on board such vessels, they are to be seized and proceeded against as directed by the twenty-sixth section of collection law. Lest the implication above-mentioned should not have been ob-

vious to all, I have concluded to give this further explanation.

I am, with consideration, sir, your humble servant,

ALEXANDER HAMILTON.

To the COLLECTORS of the Customs.

No. 5.

TREASURY DEPARTMENT, Oct. 6, 1794.

SIR: It appears, from communications to this department, that the expressions "equipments which are of a doubtful nature, as being applicable either to commerce or war," which occur in the fourth and fifth rules adopted by the President of the United States, which were communicated to you by the Secretary of the Treasury on the 4th of August, 1793, have been in some instances understood to tolerate the fitting and arming of vessels for defence, or for merchandise and war.

As this construction is manifestly irreconcilable with the first of the rules referred to, and with the plain tenor of the supplementary act of Congress passed on the 5th of June, 1794, for defining and punishing certain crimes against the United States, it is of importance immediately to correct an error, the operation of which is to defeat the intentions of the Government, and contravene the neutrality of the United States.

You will therefore be pleased to understand that the arming and equipping of vessels in the ports of the United States for military service, whether offensive or defensive, by any of the belligerent parties, is unlawful; and that the prohibition as effectually extends to military equipments destined for the protection and defence of a vessel and her merchandise, as to those equipments the object of which is combat or offensive hostility.

The equipments of a "doubtful nature, as being applicable either to commerce or war," which were intended by the rules of the President, and which were deemed lawful, will be best exemplified by stating certain cases which have occurred.

1st. The waste boards of vessels had been raised considerably higher than usual, and strengthened with additional timber and plank, which was understood to be preparatory to the opening of port-holes.

In this case it was determined that the equipment was of a "doubtful nature;" for until port-holes were actually opened, it could not be pronounced that there existed a military object. Port-holes have, however, been determined to be a military equipment, their use being foreign to navigation, and being merely applicable to combat or war.

2d. A French privateer procured an extra number of oars, and it was suggested that they must have been for military service, as it was entirely unusual to have so great a number for mere navigation.

It was, however, decided that this equipment was also of a "doubtful nature," an oar being

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merely an instrument of navigation, and there being no criterion by which to determine what extra number should change the nature of the equipment.

It is an established principle that we cannot, without a contravention of our neutrality, permit either of the belligerent parties to increase their force or means of annoyance or military defence within the ports of the United States, and it is essential that this principle be maintained with good faith, and according to the dictates of impartiality and reason.

A temporary absence of the Secretary of the Treasury on public business is the cause of my addressing you on this subject. It is proper that I should add, that the principles of this communication are conformable to his opinion. I am, &c.

OLIVER WOLCOTT, JR.

To the COLLECTORS of the Customs.

No. 6.

TREASURY DEPARTMENT, June 30, 1796.

SIR: By an instruction from this department, dated the 30th of May, 1793, the Collectors were informed that the "entry of vessels captured and brought into our ports by ships of war and privateers of France and of their cargoes, was to be received in the same manner, under the same regulations, and upon the same conditions, as the entry of vessels which were not prizes;" but that this privilege was not to extend to the belligerent Powers at war with France, being contrary to the seventeenth and twenty-second articles of our treaty with that nation.

The entry and sale in our ports of prizes to privateers commissioned by France, not being stipulated in our treaty as a right to be enjoyed by that nation, and there being an express stipulation in the twenty-fourth article of the late treaty with Great Britain, "that it shall not be lawful for any foreign privateers (not being subjects or citizens of either of the said parties) who have commissions from any other Prince or State in enmity with either nation, to arm their ships in the ports of either of the said parties, or to sell what they have taken, nor in any other manner to exchange the same," it has become necessary to vary the former instructions accordingly.

You will therefore observe, that hereafter vessels and property captured from the subjects of Great Britain by privateers commissioned against that nation are not to be admitted to an entry in the ports of the United States; of course, any goods or property landed therefrom will be subject to seizure as being imported contrary to law.

The Collectors will recollect that the security of the revenue and the faith of the United States are highly concerned in preventing the introduction for consumption or sale of any goods or property by prizes to privateers; when such vessels appear in our ports, they will, therefore, cause extraordinary care and vigilance to be observed.

The twenty-second article of our treaty with France, and the twenty-fourth article of our

treaty with Great Britain contain stipulations that privateers commissioned against either of the parties shall not be allowed to purchase more provisions than shall be necessary to their going to the nearest port of that Prince or State from whom they obtained commissions; if, therefore, the privateers of either nation exceed what is permitted in this respect, immediate reports are to be made to the Governor of the State and Attorney of the district. I am, &c.

OLIVER WOLCOTT, JR.

To the COLLECTORS of the Customs.

No. 7.

TREASURY DEPARTMENT, May 25, 1805.

SIR: I have to request your attention to the fourth section of the annexed act of Congress, entitled "An act for the more effectual preservation of peace in the ports and harbors of the United States, and in the waters under their jurisdiction," passed on the 3d of March, 1805.

As the commanders of public armed vessels are thereby directed in every instance to report their vessels to the Collector, a duty from which they were heretofore exempted by the thirty-first section of the collection law, the President directs that whenever such a vessel shall arrive, you will inform the commander, either in person, or in writing, or by message delivered by the surveyor, or by the captain of the revenue cutter, of this new provision, and request him to make report. This report will be only a statement of the name of the vessel, country, and commander, of the force of the vessel, of the port from which arrived, and, in the words of the act, of the object of his entering the harbor. It may be made either verbally to yourself, or other revenue officer notifying the commander of the vessel, or in writing; and the provision being a new one, you will be careful, whilst you carry the same into effect, that the officers and flags of all nations shall be treated with respect.

You will continue to enforce the regulations made by the State, health, or quarantine laws; and if, by the laws of the State or port regulations, already in force, a certain position in the harbor has been assigned to armed vessels, you will conform therewith. You may also, if you shall think it of urgent necessity, make temporary regulations for that object, if none yet exist; but it will be more eligible that you should in the first instance report your opinion thereon to this office for the President's consideration and decision. General instructions cannot be given on that point, as, if necessary, they must vary according to the situation of the harbor; and you will be pleased to state whether any, and, if any, what restrictions appear to you proper to be established both on that subject and in relation to the intercourse between such ships and the shore.

The President has not thought it proper to lay for the present any new restrictions on the admission, stay, or departure of armed vessels. But all the instructions heretofore given on that subject, and particularly to those which relate to

Spain, France, and Great Britain.

equipments, to privateers, and to prizes, must be considered as being still in force.

In case of refusal or neglect to conform with the regulations prescribed, you will be pleased to make an immediate report thereof to this office, I have, &c.

ALBERT GALLATIN.

To the COLLECTORS of the Customs.

SPAIN.

[Communicated to the House, February 9, 1810.]

To the House of Representatives of the United States:

I transmit to the House a report of the Secretary of State, complying with their resolution of the twenty-second of January.

JAMES MADISON.

FEBRUARY 9, 1810.

DEPARTMENT OF STATE.
February 8, 1810.

The Secretary of State, to whom the President has been pleased to refer the resolution of the House of Representatives of the 22d of last month, has the honor to state, that it appears from the records in this Department, that in the years 1801 and 1802, the Executive had endeavored to obtain for the citizens of the United States, residing on the waters of Tombigbee and Alabama rivers, the free navigation of the Mobile river to its confluence with the ocean. 1st. By claiming this navigation as a natural right, sanctioned by the general principles of the law of nations, applicable to rivers similarly situated; and 2d, By endeavoring to purchase the country held by Spain on the Mobile.

These efforts were made, before it was known that Spain had ceded Louisiana to France, and consequently before the purchase of that province by the United States. Since that purchase, the country held by Spain on the Mobile has been claimed as being included therein.

The Spanish Government having objected to this claim in a manner which justified a belief that the question would not soon be decided, our Minister at Madrid was instructed again to claim the free navigation of the Mobile, under the general principles of the law of nations, and to represent to His Catholic Majesty the propriety and necessity of giving orders to his officers not to interrupt the free communication with our territories through the waters of the Mobile.

In addition to what has been done through this Department, it appears that the Governor of the Orleans Territory, and other officers of the United States, have endeavored to induce the Spanish authorities on the Mobile to abstain from exacting duties on the passage of our merchandise or produce up or down that river. Notwithstanding, however, everything which has been done, it is understood that these authorities have continued to exact (with some occasional relaxations) a duty of twelve per cent. "on all articles

of the growth or manufacture of the United States, which are conveyed through said river to and from the city of New Orleans."

All which is respectfully submitted.

R. SMITH.

FRANCE AND GREAT BRITAIN.

[Communicated to the House, February 19, 1810.]

To the House of Representatives of the United States:

I transmit reports of the Secretaries of State and of the Treasury, complying with their resolution of the 6th instant.

JAMES MADISON.

FEBRUARY 17, 1810.

DEPARTMENT OF STATE,
February 14, 1810.

Agreeably to a resolution of the House of Representatives of the fifth instant, requesting the President of the United States to cause to be laid before that House copies of the several communications made to the Governments of France and Great Britain, in pursuance to the authorities vested by Congress in the Executive, with respect to the several orders and decrees of either, violating the lawful commerce and neutral rights of the United States, except such parts as may, in his judgment, require secrecy; and also to communicate to the same House such information as he may have received touching the forgery of papers purporting to be those of American vessels; the Secretary of State has the honor of laying before the President the following papers, viz:

1. Extract of a letter from Mr. Smith, Secretary of State, to General Armstrong, Minister Plenipotentiary of the United States, at Paris, dated March 15, 1809.

2. Copy of a note from General Armstrong to Count Champagny, Minister of Exterior Relations at Paris, dated 29th April, 1809.

3. Extract of a letter from Mr. Smith to Mr. Pinkney, Minister Plenipotentiary of the United States at London, dated March 25, 1809.

4. Extracts of a letter from Mr. Pinkney to Mr. Smith, dated May 1, 1809.

A. Extracts of a letter from John M. Forbes, Consul of the United States at Hamburg, to Mr. Madison, Secretary of State, dated 13th November, 1807.

B. Extracts of a letter from Mr. Lee, commercial agent of the United States at Bordeaux, to the same, dated November 1, 1808.

C. Copy of a letter from Mr. Hackley, Consul of the United States at St. Lucar, to Mr. Smith, dated Cadiz, 23d March, 1809.

D. Sundry original documents belonging to and concerning the ship Aurora of New York.

E. Extract of a letter from Mr. Harris, Consul of the United States at St. Petersburg, to Mr. Smith, dated 13th [25th] October, 1809, covering certain papers belonging to the ship called the Georgia, of New York.

Relations with France and Great Britain.

F. Extracts of a letter from John M. Forbes, dated November 7, 1809, to Mr. Smith, covering the forged sea-letter of the ship *Arno*, of Boston, dated August 21, 1809; also, a letter of the same date, signed Stephen Higginson and Co. to Captain William Kempton.

G. Extract of a letter from William Kirkpatrick, Consul of the United States at Malaga, to Mr. Smith, dated November 25, 1809.

It may be proper, moreover, to state, that various other communications have been received at this Department from the agents of the United States in foreign countries, which mention that the practice prevails of forging American ships' papers and documents; but as they do not afford any details, they are not included in this report, which is respectfully submitted.

R. SMITH.

[For the correspondence between the Secretary of State and the Ministers of the United States in Paris and in London, communicated by this Message, see *ante*, pages 2115 to 2131.]

A.—Extracts of a letter from John M. Forbes, Consul of the United States at Hamburg, to Mr. Madison, Secretary of State, dated

NOVEMBER 13, 1807.

Two days ago, the chief of the French douaniers, M. Eudel, having, from the circulating rumors of the town, reason to suspect that an American ship, the *Lucy*, Captain Jesse Englee, entered as coming from Norfolk, had come from England, proceeded to examine the crew; notice of this was given to me by the captain, who had also consigned his ship and freight to me, the cargo being addressed to Messrs. Osgand & Co. of this city; but having always refused to acknowledge the authority of the French douaniers, I declined being present in any official character, and, as the commercial correspondent of the captain, sent my chief clerk on board to render such assistance as might be proper. The examination did not take place on board at the time appointed, but at a later hour, at the house of M. Eudel. My clerk was not present, but I afterward learned that the mate and crew had all sworn that the ship came from London. As soon as I learned this, I wrote the captain a letter disclaiming all further individual agency in this business.

I examined more closely the papers of the ship *Lucy*, and convinced myself, by comparison of hands, that the signatures both of the President and your Excellency to the sea-letter, were both evidently forged.

B.—Extracts of a letter from Mr. Lee, Consul of the United States at Bordeaux, to the Secretary of State, dated

NOVEMBER 1, 1808.

I have been long in expectation that the President would have instructed the Consuls to detain in their hands the papers of all American vessels found in their district after the embargo, unless they were bound directly to the United States.

A determination of this nature would have done but little or no injury to our merchants, and put a stop to the practice of the English, who send shoals of American vessels from their ports, whose owners never saw America, and whose papers are manufactured in London.

Ten vessels, suspected of having been expedited in this way from London, lately arrived in the river Charente, as coming from Norway, and were admitted by the custom-house. I sent an agent over to Charente, to examine into the state of these vessels, whose report confirmed my suspicions. I immediately wrote General Armstrong on the subject; but, fearing delays might be injurious, I set out for La Rochelle, and, on my arrival at Blaize, learned that some of the crews of these vessels had betrayed their captains, and that the whole of them were seized by this Government, and the crews imprisoned.

It is proper to state to you, sir, that our vessels' papers, with all their private marks, are so completely copied in London, that it is almost impossible to detect them.

C.—Richard S. Hackley, Consul of the United States at St. Lucar, to the Secretary of State.

CADIZ, March 23, 1809.

SIR: Your Department has no doubt been informed that the practice prevails in London of forging all kinds of papers that appertain to shipping of the United States, to which may be added passports from the Department of State, certificates of naturalization, &c., some of which are well executed, so much so, that the fraud very generally passes without being detected. By this means, a considerable trade has been carried on last year *under our flag*, by British shipping, particularly to Russia and South America, and British subjects have passed wherever their business called them. Protected by these papers, our countrymen have but in too many instances found similar frauds to answer their own purposes under the state of things as they now are, and have for some time been in Europe.

The name of the person in London, who is the great dealer in this species of speculation, is Van Sander, and with this note, I cover you a sample of his execution in a set of papers received from an American citizen here, from whom I demanded them upon being informed that he had them. To you the propriety will occur of taking some immediate step to correct this evil, which, from its increasing practice, is becoming of serious importance in many points of view.

With much respect, &c.

RICHARD S. HACKLEY.

D.—Statement of the Collector of Boston respecting ship *Arno*.

The ship *Arno*, of Duxbury, burden 197 7-95, owned by Jacob Weston, of Duxbury, in the district of Plymouth, State of Massachusetts, and William Kempton, and John Perry, of Boston, State aforesaid, William Kempton, master; clear-

Relations with Denmark.

ed from the district of Boston and Charlestown, on the 17th day of June, 1809, for Bremen, loaded with eight hundred and four barrels pearl ashes, weighing 3,350 cwt., and three hundred and forty-nine barrels of pot ashes, weighing 1,219 cwt., being the whole of her cargo. A bond was taken that the said vessel should not proceed to a port in France or its dependencies, in the penalty of eighty thousand dollars. A certificate has been returned of the landing of the cargo aforesaid, at London, signed by Samuel Williams, merchant, and William Lyman, Consul at London. Her register was granted at Plymouth, on the 17th day of May, 1809, No. 27; and she had from this office a Mediterranean pass, dated 17th June, 1809, No. 87; and all other papers requisite.

The ship *Arno* is now in this port, and Kempton, her late master. H. D.

E.—Extract from a letter of Levett Harris, Consul of the United States at St Petersburg, to Mr. Smith.

ST. PETERSBURG, Oct. 13, [25] 1809.

I transmit you herewith the papers of a vessel called the *Georgia*, of New York, arrived at Archangel from New York, the register whereof proving false, all the other papers I judge alike to be the same, and she has, therefore, been condemned by this Government. Another vessel called the *Intercourse* has shared the same fate; but the Ministry have not yet sent me the papers.

F.—Extracts of a letter from John M. Forbes, Consul of the United States at Hamburg, dated

TONNINGEN, November 7, 1809.

I have lately met with a circumstance which has embarrassed me much. The ship "*Arno*," Captain Kempton, of Boston, known to have left that port on the 18th (17th) of June, with a cargo of pot and pearl ashes, lately arrived here with a cargo of gum.

I herewith enclose the sea-letter which Captain Kempton confessed to me he knew to have been forged, and which he said he had reason to believe was executed by one Van Sander, a Jew, near Whitehall, in London, who is known in the traffic of false American documents. I also enclose the original letter of instructions of Messrs. Stephen Higginson and Co., owners of the cargo.

BOSTON, August 21, 1809.

DEAR SIR: You being master of the ship *Arno*, loaded by us, and now ready for sea, we have to request that you will proceed to the port of Tonnigen as soon as possible, where you will inquire for the agents of Messrs. Parish and Co. of Hamburg, to whom your cargo is consigned. You will, of course, receive instructions from those gentlemen how to proceed as to landing your cargo, &c., and you will please to follow them. It is important to yourself, as well as us, that you do nothing to violate the laws of any of the belligerents; in which case you will not be likely to meet with any interruption in your voyage. Wishing you a pleasant passage and safe return, we are, sir with esteem, your friends and servants.

STEPHEN HIGGINSON & Co.

Capt. WILLIAM KEMPTON.

G.—Extract of a letter from Mr. Kirkpatrick, Consul of the United States at Malaga, to Mr. Smith, Secretary of State, dated

NOVEMBER 25, 1809.

A few days ago the brig *Uforsight*, Christian Boden, master, arrived here from Poole, with a cargo of bale goods and fish. Although her papers appear to be in perfect order, some doubts exist in my mind of their legality. I have consulted with some citizens of the United States actually here, and they agree with me in opinion, that the signatures of the President, yours, collector of New York, and of Joseph Nourse, are so well done, that it is impossible to discover any difference. Under this impress, I have determined to pass you a note of the ship's papers, that if they are really false, you may take such measures as you consider proper for having them seized on by the Consuls in Europe where the vessel may be found.

NOTE.—The ship's papers alluded to are found to have been forged.

DENMARK.

[Communicated to the Senate, April 2, 1810.]

To the Senate of the United States:

I transmit to the Senate a report of the Secretary of State, complying with their resolution of the 22d instant.

JAMES MADISON.

MARCH 30, 1810.

DEPARTMENT OF STATE, March 29, 1810.

SIR: I have the honor to transmit herewith copies of all the letters on file or record in this Department, which relate to the subject of the resolution of the Senate of the 22d instant.

It may be proper to observe, that the papers referred to in the letter of the Secretary of State of the 26th of November, 1800, are not now to be found in this Department. I have the honor to be, &c.

R. SMITH.

The PRESIDENT of the United States.

Extract of a letter from J. Marshall, Secretary of State, to Richard Soderstrom, Esq.

NOVEMBER 26, 1800.

SIR: I have received your letters of the 24th and 25th instant, accompanying one from the Governor General of the Danish West India islands, bearing date of the 6th of August last.

Be assured, sir, that the Government of the United States respects, as it ought to do, the friendship and flag of His Danish Majesty, and will not intentionally commit an act which may insult the one, or diminish the other. If, in any instance, our cruisers have violated a really neutral flag, they have, in doing so, departed from the instructions under which they sail.

It is not, however, to be disguised, that means have been devised by which the Danish flag has

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been used in the West Indies for purposes which we believe His Danish Majesty would not countenance.

I have communicated the letters from yourself and the Governor General of the Danish West India islands, to the Secretary of the Navy. He informs me that Lieutenant Maley has been dismissed the service principally on account of the improper manner in which he has conducted himself towards neutrals.

With respect to the particular case of the Mercator, it is certainly advisable to prosecute an appeal. If she was really a neutral bottom, she will not, it is presumed, be condemned. Without deciding absolutely that the United States will or will not consent, when the case shall be ultimately decided, to pay for the vessel and cargo if confiscated, we are certainly not sufficiently informed at present to take any responsibility on ourselves, in the event of an unfavorable issue of that affair.

Extract of a letter from Mr. Richard Soderstrom to the Secretary of State.

WASHINGTON, June 10, 1801.

I had the honor of laying before the late Administration of the Government of the United States my respectful complaints of certain irregularities and violations of the Danish flag, which had been committed by some officers of the American Navy, whilst this country was engaged in maritime hostilities with France. My representations were listened to with the attention which the subject required, and I had every reason to expect that justice, such as becomes this respectable nation, would be done to the parties aggrieved. The changes which have lately taken place in the Executive Department have suspended for a while the effects of my application, but have not diminished my prospect of success. I have a sure pledge of it, in the virtues of the great character who now fills the Presidential chair, and in the talents and integrity of those in whom he has placed his confidence. I flatter myself that the adjustment of the past will suffer so much the less difficulty, that the possibility of any future ground for similar complaints is now entirely removed by the restoration of amity between the United States and the French Republic. With full confidence, therefore, in the magnanimity and justice of the American Government, I shall now beg leave to draw your attention to three cases of capture of Danish vessels, in which, I conceive, that the sufferers have a right to claim a just indemnity from the Government of the United States.

The first case is that of the schooner Mercator, Captain Toussaint Lucas, the property of Mr. Jared Shattuck, an old established burgher of the island of St. Thomas, and subject of His Danish Majesty. This vessel being on her way from St. Thomas to St. Domingo, duly documented as a Danish vessel, was captured on the high seas by Captain Maley, of the armed schooner of the United States, Experiment, under the real or pre-

tended suspicion of her being an American vessel, covered by Danish papers; a suspicion, sir, which nothing could warrant, unless it were the English sounding name of the vessel and her owner—a circumstance common to most vessels of the Danish islands. Two days after she had been captured, she was met with by a British armed ship, who took and carried her into Jamaica, where she was condemned as prize, without any reasons whatever being assigned for her condemnation.

I had the honor of writing at large, to the late Secretary of State, respecting that particular case, on the 24th of November last. I beg leave to refer you to that letter, and those which followed it, copies of which go herewith. In those letters I urged the claim of Shattuck to an indemnification on the following grounds:

1st. Because, by the law of nations, no country has a right to violate a friendly flag, or to arrest the vessels of other nations on the high seas, on suspicion of their having infringed a purely municipal law, such as the late act for suspending the intercourse between the United States and France. There is but one instance in history of a claim to such a right having been set up by any Power. It was when Spain, in the year 1739, searched the vessels of other nations, particularly those of England, on suspicion of their being engaged in a contraband trade with her colonies; nay, she only assumed to search them within a certain distance from her coasts, where she might have claimed a kind of jurisdiction.

Nevertheless, this pretension was the cause of a long and bloody war between the two countries, and Spain was at last obliged to give up the point. The speeches of the great Lord Carteret, in the British House of Peers, on that occasion, contain the most convincing argument in favor of the doctrine which England succeeded in establishing for the benefit of the world.

2d. Because the act of Congress, on which the seizure was pretended to be founded, did not in any manner authorize it, as it only authorized the seizure on the high seas of vessels of the United States; a technical expression, clearly excluding vessels sailing under the flag and authority of other Powers.

3d. Because the vessel being unarmed, there was no pretension for seizing her as an enemy vessel; nor, indeed, could the cruisers of the United States seize a neutral vessel under any suspicion, by the *jus belli*, as no war between the United States and any country had been declared and notified to the neutral Powers, nor did the limited kind of undeclared warfare in which the United States were then engaged authorize any such seizure.

4th. Because, if the vessels of the United States had a right to seize Danish vessels, and carry them into port for legal adjudication, they were bound to protect them until they reached the port to which they were carrying, and not to suffer them to be wrested from them by the vessels of any Power.

5th. Because it is a doctrine fully established, that the captors of neutral vessels proceed at their

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peril, and are responsible for all consequent injury and loss; and so it was determined by the Supreme Court of the United States, in the case of *Delcole Arnold, 3d Dallas' Reports, 334.*

These and other arguments, (and amongst them was this, that no appeal had or could be made by Mr. Shattuck, and if the same was not made within a certain time all would be lost,) which I urged partly by letters and partly in the course of conversation with General Marshall, appeared to him so convincing; that, before he retired from office, he had given me reason to expect that Mr. Shattuck would receive from the Government of the United States the indemnity to which he is so justly entitled. I have no doubt that the same principles of justice will be found to animate his successor. The war which has lately broken out between England and Denmark leaves no hopes whatever of obtaining any satisfaction from that quarter.

Copy of a letter from the Secretary of State to Richard Soderstrom, Esq.

JULY 23, 1801.

SIR: I have been honored with your letter of the 20th. requesting to know the determination of the Executive on the cases of three Danish vessels explained in your letter of the 10th ult.

Should the Executive, on an investigation of those claims, be satisfied that compensation is due to the Danish subjects, on whose behalf they are made, it must be sanctioned by an appropriation of the Legislature. But the general usage requires that redress should be first prosecuted judicially, and, if not thus obtained, and the obligations of the United States should be found, nevertheless, to demand that compensation should be made, the circumstances of each case will be so clearly ascertained in the judicial process, as to enable the Government to do justice both to itself and to others. I have reason to conclude that this course will be the more satisfactory to you, as your observation will have convinced you of the scrupulous regard to the rights of foreigners by which our courts of justice are distinguished. I have the honor to be, &c.

JAMES MADISON.

From Mr. Soderstrom to the Secretary of State.

PHILADELPHIA, August 10, 1801.

SIR: I have received the letter you have honored me with, dated the 23d ultimo. I was well aware that the Executive of the United States could not pay the indemnities claimed by the Danish subjects, until appropriations were made by the Legislature for that purpose.

I thought, however, that in the mean time the principles applying to each particular case might have been agreed upon. and the damages liquidated in some amicable mode, as is frequently done in Europe, and has been practised by the American Government, while the present President was Secretary of State, particularly in the case of the *William*. No one can feel a higher respect than I do for the universally acknowl-

edged learning and integrity of the judges of the United States; at the same time, I cannot help considering it as a peculiar hardship for His Danish Majesty's subjects to be compelled to have recourse to tedious and expensive judicial proceedings, when the United States have in their power a more easy method of doing justice; and I hope you will forgive me, sir, if I presume to differ with you as to the point of general usage in this particular.

At the same time, I am fully sensible that it is my duty to submit to the determination which the Government of the United States has made upon this subject, although my doing so will be attended with considerable hardship and difficulty, particularly in the case of Captain Maley, who, I understand, is not only insolvent, but absent from the United States.

I presume, however, that the Government of the United States will have no objection to facilitate my obtaining justice in the mode which they have chosen, by instructing Mr. Attorney for the Pennsylvania district, or, if they think proper, Mr. Attorney for the District of Columbia, to appear for the United States, and defend the suits I may think proper to institute for the several claimants. Should they accede to this proposal, I am sure that they will not lengthen the proceedings by unnecessary appeals; but that the matters in variance will be settled in as short a time as the judicial mode of investigation will admit of.

I beg you will honor me with an answer to this part of my letter, that I may determine, without loss of time, on the course which I shall have to pursue.

I have the honor to be, with great respect and high consideration, sir, your obedient servant,
 RICHD. SODERSTROM.

Copy of a letter from the Secretary of State to Richard Soderstrom, Esq.

OCTOBER 27, 1801.

SIR: In relation to the complaints you have preferred in several instances of capture and recapture of property alleged to be Danish, against the commanders of American public ships of war, it is my duty to inform you that, with the sincerest desire to avoid anything which may procrastinate a decision, and under a just impression of the candor and liberality which your manner of acting would bring into the discussion, we are, nevertheless, restrained by the necessity of adhering to useful and established forms, to consider the Minister resident of Denmark as the only proper organ of the Danish subjects in making their reclamations. Whatsoever regards the solicitation of their business, in a judicial form, after principles are established with the Government, may, however, be confided to your management, by Mr. Olsen, with great propriety, in the usual legal methods. In the mean time, I beg you to be assured of the high respect with which I have the honor to be, &c.

JAMES MADISON.

Relations with Denmark.

Mr. Olsen to the Secretary of State.

PHILADELPHIA, Jan. 16, 1802.

SIR: Mr. Soderstrom has had the honor of writing to you on the subject of the Danish schooner *Mercator*, which was unlawfully captured on the high seas by Captain Maley of the United States' armed schooner *Experiment*, and afterwards lost by capture from a British armed vessel while under the protection of the American flag. He represented to you, that Captain Maley being out of the United States, and in a state of insolvency, it was impossible for the owner of the captured property to seek his redress against him, and requested that this Government would point out some mode by which satisfaction might be obtained.

In this state of things, sir, it becomes my duty to interfere on behalf of one of His Majesty's subjects, who appears to have greatly suffered in consequence of such conduct of a commissioned officer of the United States. The American Government cannot but be sensible that the capture of that vessel was an unjustifiable violation of the flag of a friendly nation, and that a reparation is due to the party injured; permit me, therefore, sir, to urge Mr. Soderstrom's request, that some mode may be pointed out, by which the amount of this loss may be ascertained, so that the party may receive full and complete reparation for the injury which he has sustained.

I am, with great respect, &c.

BLICHER OLSEN.

HON. JAMES MADISON, *Secretary of State.*

Extract:—Mr. Olsen to the Secretary of State.

APRIL 12, 1802.

SIR: In a letter I had the honor to write you on the 16th of January last, I took the liberty to lay before you an official note, stating the particulars concerning the claims of one of the King's my master's subjects, against Captain Maley, commander of the United States' armed schooner *Experiment*, for having unlawfully captured, and afterwards allowed to be recaptured by a British armed vessel from under his protection, the Danish schooner *Mercator*; and further, as the said Captain Maley was found to have left the United States, requesting that this Government would point out some mode by which the owner of the captured property might obtain justice and reparation for the loss and injury he has sustained.

Though deeply lamenting the necessity of pressing on the precious moments of your time, devoted to so vast a number of other pressing occupations and duties, I feel it nevertheless indispensably incumbent upon me to torment you once more on this subject, and to repeat my demand to be favored with an answer acquainting me with the means employed in order to secure to an injured countryman of mine such indemnification as the impartial laws of this country may deem him entitled to.

Being yourself, sir, placed in a station which gives you a right to prescribe and to expect simi-

lar exertions in similar cases, from agents appointed under your directions, so far from apprehending any displeasure on your part by this my repeated zeal, I rather flatter myself to meet your generous approbation; and beg leave to assure you, sir, that a true sentiment of personal esteem for your generally acknowledged principles has been on this occasion, and shall henceforth constantly be, an additional and powerful inducement to me for the most vigilant performance of my duties.

I am, with great respect, &c.

BLICHER OLSEN.

HON. JAMES MADISON, *Secretary of State.*

Extract:—Secretary of State to Mr. Olsen.

DEPARTMENT OF STATE, April 23, 1802.

SIR: Your letter of the 12th instant, preceded by that of January 16th, has been duly received. The case of the *Mercator*, which is the subject of both, having been referred, with many other subjects, to the Attorney General, some time elapsed before I could avail myself of the benefit of his observations; and as an apology for the subsequent delay, I must ask you to accept the pressure of business incident to the present season, with some adventitious circumstances, which have contributed to the same effect.

According to the usual course, injuries committed on aliens as well as citizens ought to be carried, in the first instance at least, before the tribunals to which the aggressors are responsible. In these, the facts can be best investigated, and the points on which the question depends be most fully brought into view. In the case of the *Mercator*, it is the more proper that this course should be pursued, as the circumstances stated in the documents give so imperfect a view of it. Notwithstanding the absence of Captain Maley, a resort of this kind can be effected by proper instructions to an Attorney of the United States, which will be given as soon as you shall be pleased to signify the district in which you wish the judicial proceeding to be instituted.

In the mean time, as it may be made an eventual question, distinct from the conduct of Captain Maley, how far the capture of the *Mercator*, whilst in the custody of the American prize-master and flag, by a British armed ship, the General Simcoe, ought to make the United States rather than Great Britain liable to the Danish claimants, the most candid consideration will be given to whatever observations you may please to make with a view to show that, under such circumstances, the law and usage of nations justify the pursuit of redress against the United States, instead of the positive authors of the injury. By that law and the usage authorized by it, the decisions of the President will be scrupulously guided, &c. &c.

Accept, sir, the sincere esteem and consideration with which I have the honor to be, &c.

JAMES MADISON.

PETER BLICHER OLSEN, Esq.

Great Britain—American Seamen.

Mr. Olsen to the Secretary of State.

PHILADELPHIA, June 6, 1802.

SIR: In your letter of the 22d April, you have been pleased to observe sir, in answer to mine of the 12th of the same month, concerning the capture of the Danish ship *Mercator*, by Captain Maley of the United States, that proper instructions should be given to an attorney, as soon as I had signified the district in which I wished the judicial proceeding to be instituted.

As for the present moment I reside in the city of Philadelphia, where I shall be at hand to give instructions to counsel, I take the liberty to propose, that the case may be investigated in the district court of Pennsylvania, which I suppose will be so much more eligible in point of locality, as it is the State where Captain Maley resided at the time of the capture, and in which he may in his absence, perhaps, be most legally sued.

I have the honor to be, &c.

BLICHER OLSEN.

HOD. JAS. MADISON, *Sec'y of State.*

From the Secretary of State to A. J. Dallas, Attorney for the District of Pennsylvania, dated

JUNE 15, 1802.

SIR: Mr. Olsen, the Danish Minister Resident, has complained of Captain Maley in capturing a Danish vessel, the *Mercator*, which was afterwards lost by capture, while under the American flag, by a British armed vessel, and condemnation in a British Court of Admiralty. He has represented, also, in behalf of the Danish owner, that Captain Maley is both absent from the United States and in a state of insolvency, and requests that the proper mode of redress may be pointed out.

He was informed, that, notwithstanding the absence of Captain Maley, a judicial investigation of the case could be effected through an attorney of the United States, and that the necessary steps would be taken as soon as he should signify the district preferred by him.

I have just received an answer from him, requiring that the judicial proceedings may be had in Philadelphia.

You will please, therefore, sir, to concur in instituting the proper proceedings, by appearing in behalf of Captain Maley, in whose defence the United States are interested.

I enclose, for your information on the subject, the protest of the second lieutenant, under Captain Maley, who was prizemaster of the *Mercator*, and of another person belonging to the *Experiment*; and also the decree of the British Court of Vice Admiralty which condemned the *Mercator*. These are the only documents which I am able to forward for the purpose. I am, very respectfully, &c.

JAMES MADISON.

Mr. Pedersen to the Secretary of State.

PHILADELPHIA, Dec. 11, 1806.

SIR: In consequence of a letter received from the Governor General of His Danish Majesty's

West Indian islands, respecting the case of Jared Shattuck, a Danish subject and burgher of the island of St. Thomas, owner of the schooner *Mercator* and cargo, requiring me to represent the same, in order to obtain from the American Government that compensation for his losses which the Supreme Court of the United States, during its last session, awarded in the sum of \$33,864 35, I have now the honor, sir, to recommend this case to your special support and protection; and I cannot but flatter myself that my application to you on this occasion will be attended with the fullest success, when it is considered that the case in question has gone through a legal investigation, and that the highest tribunal of justice in the United States has decreed the above sum for damages and restitution. But I abstain from making any other observation on this subject, since it appears, from your report to the House of Representatives of the 9th April last, that, taking into consideration all the circumstances attending this case, as well as what the Legislature has done in similar cases, it is your own opinion that provision ought to be made for the payment of that sum and the costs of the petitioner. Congress being now in session, I hope it will adopt a resolution founded on this representation of the case, and that the result will afford a convincing proof to my Court that the friendly disposition of the Government of the United States perfectly corresponds with that which the King my master always has manifested towards them.

I avail myself, with pleasure, of this opportunity for presenting to you assurances of the very distinguished consideration and respect with which I have the honor to be, sir, your most obedient, humble servant,

PETER PEDERSEN.

GREAT BRITAIN.—AMERICAN SEAMEN.

[Communicated to the House, April 5, 1810.]

To the House of Representatives of the United States

I transmit to the House a report of the Secretary of State, complying with their resolution of the 26th March.

JAMES MADISON.

APRIL 4, 1810.

DEPARTMENT OF STATE, April 4, 1810.

Agreeably to a resolution of the 26th March, requesting the President of the United States to cause to be laid before that House such information as he may have received, touching the impressment of American seamen, which has been communicated to the Department of State since the last report made to the Senate, in virtue of a resolution of that body, bearing date the 30th of November, 1807, the Secretary of State has the honor to report to the President, that accounts have been received at this Department, exclusively of those reported by the agents of the United States, of the impressment of four hundred and sixty-two seamen, from vessels under the American flag, into armed vessels under the Brit-

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ish flag, since the period referred to; that, of this number, two hundred and thirty-five are proved, by documents in this office, to be citizens of the United States, and the most of the rest claim also to be American citizens.

The Secretary has likewise the honor to submit the abstract marked A, of all the returns received at this Department from Gen. Lyman, the agent of the United States in London, exhibiting a statement of all the applications made by him to the British Government for the discharge of American seamen, from the 1st October, 1807, to the 31st March, 1809, and showing the result of these applications.

The returns from the agents in the West Indies are very incomplete; those actually received from them, since the report to the Senate, containing an account of forty-two impressments only from American into British vessels.

The Secretary submits herewith an extract of a letter from G. T. Ladico, (marked B,) acting as Consular Agent of the United States at Port Mahon, on the subject embraced by the resolution of the House. Respectfully submitted.

R. SMITH.

A.—An abstract of the returns or lists, received from General Lyman, of American seamen and citizens who have been impressed and held on board His Britannic Majesty's ships of war, from the 1st of October, 1807, to the 31st of March, 1809, showing the result of his applications to the Admiralty for their discharge.

Seamen discharged, &c.

Discharged and ordered to be discharged	- 287
Duplicate applications - - - -	- 30

Refused to be discharged.

Having no documents - - - -	- 11
Said to be born in England or Ireland - -	- 91
Having voluntarily entered - - - -	- 34
Married in England or Ireland - - - -	- 7
Exchanged as a prisoner of war - - - -	- 1
Being totally ignorant of the United States -	- 5
Being deserters - - - - -	- 4
Being taken in privateers - - - - -	- 5
Not being Americans - - - - -	- 2
Being impostors, with fraudulent protections	- 11
There being no ground to believe them American citizens - - - - -	- 2
Being taken when defrauding the revenue -	- 2
Having erased protections - - - - -	- 2
Having been sent into His Majesty's service by the masters of the vessels to which they belong, for mutiny - - - - -	- 2
Protections taken from them - - - - -	- 4
Being Irishmen, and having been sent into His Majesty's service by the civil power, for misdemeanors - - - - -	- 2
Not answering descriptions given in their protections - - - - -	- 44
Being a prisoner of war - - - - -	- 1
Being born in the West Indies - - - - -	- 3
Being a native of Canada - - - - -	- 1
Being a native of Hanover - - - - -	- 1

Documents insufficient—refused discharge.

Protections from Consuls and Vice Consuls	64
Notarial and other affidavits made in U. S. -	29
Discharges from King's ships - - - -	- 4
Collectors' protections - - - - -	- 8
Documents from the Department of State -	15
Certificate of birth - - - - -	- 1

Other miscellaneous cases.

Not on board the ships as stated - - - -	- 23
Deserted - - - - -	- 32
Drowned - - - - -	- 1
Stated to be on board ships not in commission	- 1
Stated to be on board ships on foreign stations	48
Referred to the Transport Board - - - -	- 1
Applications unanswered - - - - -	- 103
Invalided - - - - -	- 21
Total - - - - -	- 903

B.—Extract of a letter from G. T. Ladico, Consular Agent of the United States at Port Mahon, to the Secretary of State, dated

DECEMBER 10, 1809.

I find myself under the necessity to inform you, that several American seamen, impressed and detained in some English men-of-war, have applied to me in order to obtain from their respective commanders their liberty, that they might return to the United States. The want of a Consul General in the Balear islands, since the departure of John Martin Baker, Esq., late Consul, who did me the honor to appoint me Vice Consul in this island, and my zeal for whatever concerns the advantage of the citizens of the United States in every regard, have induced me to officiate with Admiral Lord Collingwood on account of said claims, to which he answers, dated Port Mahon, the 4th December, 1809:

"All applications relative to subjects of the United States, who may be serving in the fleet under my command, should pass through the American Minister in London, before I take cognizance of them."

STATE OF THE FINANCES.

[Communicated to the Senate, the 2d of June, 1809.]

TREASURY DEPARTMENT, June 1, 1809.

In obedience to the directions of the act supplementary to the act, entitled "An act to establish the Treasury Department," the Secretary of the Treasury respectfully submits the following report:

The net revenue arising from duties on merchandise and tonnage, which accrued during the year 1807, amounted, as appeared by the last annual statement, to \$16,060,000.

A correct statement of that revenue, for the year 1808, cannot be prepared at this time, but may be estimated, as will appear by the estimate A, to about \$10,270,000.

The revenue arising from the same sources,

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which accrued during the first quarter of this year, did not much exceed one million of dollars; and although considerable importations may be expected from Great Britain and the West Indies, during the last six months of this year, yet, considering that there will be no arrivals from China and the East Indies, and the situation of the commercial intercourse of the United States with the rest of the world, it is not probable that the revenue, accruing during the year 1809, will exceed that of the year 1808.

The specie in the Treasury, on the 1st October, 1808, amounted to - - \$13,846,717 52
And the receipts, during the last three months of that year, as appears by the statement B, to 3,586,316 99

17,433,034 51

The disbursements, during the same period, have amounted, including \$6,105,000, paid in reimbursement of the principal of the public debt, to - - - \$7,491,339 79

Leaving a balance in the Treasury, on the 1st January, 1809, of - 9,941,694 72

17,433,034 51

The cash in the hands of collectors and receivers, and the outstanding revenue bonds, amounted, on the 1st January, 1809, to - - \$9,880,000

From which, deducting for the expenses of collection and for the drawbacks payable during the year 1809 3,000,000

Leaves, for the probable receipts of the year 1809, exclusively of the inconsiderable sums which may be received on account of the revenue accruing during that year, a sum of 6,880,000

Making, together with the balance in the Treasury, on the 1st of January, 1809, of - - - 9,941,000

An aggregate of sixteen millions eight hundred and twenty one thousand dollars, applicable to the expenditures of this year - - - \$16,821,000

The expenses of the year 1809 are, in conformity with the existing appropriations, estimated at fourteen millions five hundred thousand dollars, consisting of the following items:

Civil list, including the expenses of this session of Congress, miscellaneous expenses and foreign intercourse - - - \$1,342,000

Military and Indian departments, viz:

Appropriation for the Army and the

Indian department - 2,765,000

Do. for fortifications - 475,000

Arms and military stores 550,000

3,790,000

Naval Department, this year's appropriation - - - 2,915,000

Public debt (\$1,547,000 of the appro-

priation of \$8,000,000 for the year 1809, having been paid in advance in the year 1808, in order to effect the reimbursement of the whole of the eight per cent. stock) - - 6,453,000

\$14,500,000

It must, however, be observed, that the estimate of the sums, payable in the course of this year, on account of drawbacks, is conjectural; and that the exportations, particularly of colonial produce, would, if the restrictions laid by the Continental Powers of Europe on neutral commerce were removed, produce a much greater defalcation in the net receipts into the Treasury than the sum assumed in the preceding estimate. In order to guard against any inconvenience arising from that contingency, and for the purpose of keeping always a moderate sum in the Treasury, it may be necessary to borrow a sum equal to the amount of the principal of public debt which will be reimbursed during the year, and which will exceed three millions of dollars.

By the tenth and nineteenth sections of the act making further provision for the support of public credit, and for the redemption of the public debt, passed on the 3d of March, 1795, the Commissioners of the Sinking Fund are authorized, from time to time, to borrow, and the United States Bank to lend, sums equal to the reimbursement of the public debt. But some doubts having arisen whether the powers vested by those two sections are applicable to the new six per cent. stocks, it is desirable that the authority should be expressly extended, by law, to that case; and no other provision seems necessary for the public service of this year.

It would be premature to attempt, at this time, an estimate of the receipts and expenditures of the year 1810. It is sufficient to observe, that, although the receipts may exceed those of the present year, it is highly improbable that they should be equal to the expenditures of that year, which, unless the Military and Naval Establishments should be reduced, will amount to sixteen millions of dollars. But it is believed that the revenue will, after that year, be adequate to discharge the annual expenses.

All which is respectfully submitted.

ALBERT GALLATIN.

PROTECTION TO MANUFACTURES.

[Communicated to the House, June 7, 1809.]

To the honorable the Congress of the United States, the petition of the subscribers, manufacturers of hemp into linen, and inhabitants of the State of Kentucky, respectfully sheweth:

The subscribers having, since the passage of the acts commonly called the "embargo" and "non-importation acts," engaged in the manufacture of hemp into linen, and many of them having expended great part of their respective capitals in

Protection to Manufactures.

preparing machinery and erecting buildings to carry on the same, beg leave, upon the approach of a new state of affairs, to call their situation to the attention of your honorable body. Whilst they rejoice, in common with their fellow citizens, that the returning sense of justice of one of the great belligerent Powers of Europe, as displayed in some recent communications to our Government, affords a hope that our country may escape the calamities of war, they must be permitted to state that this cause of national rejoicing will, in all human probability, be greatly oppressive to them. Their establishments have grown out of our differences with foreign nations. The "non-importation act," which passed, as your petitioners always understood as much to change the direction of some of the national capital from commercial to manufacturing pursuits, as with a view to bring a great foreign Power to a sense of justice, by prohibiting the introduction of coarse linen, &c. into the United States, gave being to their manufactories; and with the further patronage of your honorable body, will, beyond all doubt, rapidly increase in the Western country. Already there is manufactured, in Kentucky, a quantity of baling linen sufficient for the consumption of the greater part of the cotton country; other manufactories are erecting, and several citizens are extending their views to finer linens and sail cloth. Such, however, is the superiority of European capital and arts; such the cheapness of labor in Great Britain and Ireland; such the aid given there to manufactures by bounties from the Government; such the obstacles which an American manufacturer has to combat and overcome; and such the lessons furnished by experience; that your petitioners forebode the annihilation of their respective establishments, unless some aid is afforded them, at this moment, by the interposition of Congress.

That this protection of your honorable body will be given to them at the present moment, they are the more persuaded, when they review the proceedings of every Congress which has sat, since the formation of the Federal Constitution. Every law which has been enacted; every declaration which has come to the people, from that quarter; has shown it to be the wish of Congress to make the United States independent of the world, as to articles of the first necessity, as she is in her political rights as a nation. And for this purpose Congress have laid duties upon all raw or manufactured articles, to an extent sufficient to prohibit their importation, whenever it was ascertained that the country could produce a sufficiency for home consumption. And, in some instances, protecting duties have been laid with such efficacy, as not only to produce internal manufactures, sufficient for the supply of the demand at home, but to become, also, articles of considerable amount in the scale of our exports.

Not merely, however, have Congress, in laying prohibitory or protecting duties, evinced a disposition to encourage this species of domestic industry, but that body has also granted bounties to encourage the industry of an isolated part of the

Union—a species of industry, too, in which but a small portion of the citizens could participate—the fisheries. Far be it from the subscribers to repine at a policy of this kind, because it could not have an operation upon them, or affect the great mass of the people. They have no such views: for, they well know that the United States compose an extensive nation; that her citizens are scattered over an immense extent of country, having various soils and climate, with pursuits adapted or varied to their different local situations. And a Government, framing laws for this scattered population, must necessarily consult the wants and necessities of every part of it, to promote the general good of the whole. A reference to the report of Mr. Secretary Jefferson will evince that enlarged and liberal views of this kind induced Congress to grant bounties to the fisheries. But views of another nature seem also to have influenced that body. The encouragements given to their own fishermen, by foreign nations, and the restrictions laid upon their oils and fish, in foreign ports, had threatened the fisheries with destruction; and the question came before Congress, whether that business should be abandoned entirely, or supported by the nation at large. The same question the subscribers consider as occurring in the present instance. Independent of the superiority which the British manufacturer possesses, in the low price of labor, the experience and skill of his workmen, and the strength of his capital, he enjoys advantages which are not known to an American manufacturer, in the bounties given by Government to those who grow the raw material, and to those who export the manufactured article. Whether an American manufacturer can resist a combination of advantages so unfavorable to his interests, without aid from Government, appears to the petitioners as problematical indeed.

Your petitioners deem it material to represent, that the non-importation act, by creating a demand for the articles which that act prohibited, has changed the direction of much capital, and caused the erection of buildings, which must now become waste, without the interposition of Congress. That if it be important to encourage manufactures, and if they promote national wealth, by encouraging internal industry; if they keep money at home, by preventing it from going abroad for foreign productions; if they give life to the industry of the farmer, the planter, and the mechanic; there can be no question upon the subject. This is the time to encourage them effectually. If those which are erected be suffered to go to waste; if those recently established die with the law which gave them being; an age will pass away before other citizens will embark in the same business. Ill success, upon the part of one manufacturer, will prevent others from engaging in the same pursuits; success that crowns every measure with popularity, produces herds of imitators and followers.

Nor can it be an unimportant consideration with Congress, that the encouragement of domestic manufactures will have a tendency to trans-

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plant the arts and capital of Europe to this country, by holding out inducements to artists and manufacturers to remove here.

The subscribers cannot quit the subject without some remarks upon the peculiar situation of the country in which they live. Kentucky is rich in soil, but at a distance from the seas. She is capable of producing hemp for the whole supply of the United States—an article perhaps as much wanted as any other, both by the Government, and by private citizens, engaged in every pursuit in life; which, to an enormous amount, is annually imported from the northern parts of Europe, and which cannot easily be procured, in case of war. If the manufacturers of Kentucky were sufficiently encouraged, they would induce the farmers to cultivate it, so as to furnish a never-failing resource, whether in peace or war. The proximity of Kentucky to Ohio and Indiana subjects her to continual drains of treasure for United States' lands. Large sums are annually taken off for foreign productions, and merchants in the Atlantic States, who are the real collectors of the revenue, for Kentucky, her quota to the Treasury. Protected as she is by the Union, with this arrangement she is satisfied. But when the fishermen of the East are not only encouraged by protecting duties, but also by bounties; when, comparatively speaking, no public moneys are expended here, but all at Washington, and on the seaboard, in salaries, buildings, fortifications, upon the Army, and on the Navy, for the protection of commerce, in which, from her local and insular situation, she cannot participate; she would be better pleased if she was indemnified, for these disadvantages, by some encouragement of her industry; and that, perhaps, can best be done, with public benefit, by protecting duties to the manufacture of what promises to be her staple article. Wherefore, &c.

JOHN ALLEN, and others.

COMMISSIONERS OF THE SINKING FUND.

[Communicated to the House, June 23, 1809.]

TREASURY DEPARTMENT, June 20, 1809.

SIR: I have the honor, in obedience to the resolution of the House of Representatives of the 17th instant, to transmit copies of the following documents, viz:

A. Proceedings of the Commissioners of the Sinking Fund, at a meeting held on 18th March, 1809, directing the application of a sum, not exceeding \$2,250,000, to the reimbursement of the principal of the exchanged six per cent. stock, and authorizing the Secretary of the Treasury to borrow, with the approbation of the President of the United States, and in conformity with the provisions of the 10th section of the act "making further provision for the support of public credit, and for the redemption of the public debt," a sum equal to that of the principal of the exchanged six per cent. stock, which might be thus reimbursed.

B. Letter from the Secretary of the Treasury to the President of the Bank of the United States, dated 21st March, 1809, inquiring whether the proposed loan might be obtained from the bank; and, also, whether the bank would assent to a cotemporaneous reimbursement of the whole amount of exchanged six per cent. stock owned by that institution.

C. Answer of the President of the Bank of the United States, dated 24th March, 1809, stating that it appears to the Board of Directors that they are not authorized, by the act of 1795, to make a loan for the reimbursement of the stock created by the act of 1807; that the bank will agree to the loan, provided it is not wanted for a more distant period than the time when the present charter of the bank will expire; and provided, also, a law be obtained giving them authority to make it; and that the board prefer a reimbursement of only so much of the exchanged six per cent. stock which they own, as may fall to the lot of the bank.

D. Proceedings of the Commissioners of the Sinking Fund, at a meeting held on the 26th December, 1795, authorizing a loan of \$500,000, pursuant to the first section of the act above-mentioned, passed the 3d of March, 1795.

E. Contract with the Bank of the United States, dated 31st December, 1795, for a loan of \$500,000, obtained from that institution, in pursuance of the last mentioned proceedings of the Commissioners of the Sinking Fund.

F. Proceedings of the Commissioners of the Sinking Fund, at a meeting held on the 15th December, 1798, authorizing a loan of \$200,000, pursuant to the provisions of the act above-mentioned, passed the 3d of March, 1795.

G. Contract with the Bank of the United States, dated 17th December, 1798, for a loan of \$200,000, obtained from that institution, in pursuance of the last mentioned proceedings of the Commissioners of the Sinking Fund.

No other loans have ever been obtained under either the first or tenth section of the act of 3d March, 1795; nor can I find, in the minutes of the Commissioners of the Sinking Fund, any other proceedings touching the exercise or construction of the duties or powers contained in those sections.

It appears by the document A, that the Commissioners of the Sinking Fund, at their meeting of the 18th March, 1809, construed the words, "public debt," in the 10th section of the act of 3d March, 1795, as embracing the exchanged six per cent. stock; and considered the section, generally, as authorizing them to borrow, with the approbation of the President, the sum requisite for the reimbursement of that part of the principal of the public debt, if there was, in their opinion, reason to apprehend that all the demands on the Treasury, including such reimbursement, could not be discharged unless a loan to that amount was obtained.

I. The Commissioners of the Sinking Fund did not decide that the words "public debt," in that section, comprehended any debt which did

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not exist on the 3d day of March, 1795, when the law was passed; nor even any portion of the debt then existing, which might (as in the case of the three per cent. stock, converted, by virtue of the act of 11th February, 1807, into a six per cent. stock) have been subsequently altered, either in the amount of its capital, or in the rate of interest payable thereon. The construction which they gave to the law, applied only to the six per cent. stock, issued by virtue of the 2d section of the act of 11th February, 1807, in exchange of the old six per cent. or deferred stocks. No alteration whatever was produced by that exchange, either in the amount of principal, in the rate of interest, in the time of paying the interest, or in the manner of transferring the debt. The only change is the manner in which the principal should be reimbursed; and that certainly did not alter the nature of the debt. This exchanged stock is, therefore, in the opinion of the commissioners, precisely the same debt which existed in March, 1795, and to which the powers vested in them, by that act, are strictly applicable. But, although the grounds on which a different opinion was entertained by the bank are not to this moment understood, it appeared eligible, in a case where doubts were suggested, to apply to Congress for an explanatory act, and, in the meanwhile, to suspend any further proceedings respecting the proposed loan. The resolution of the Commissioners of the Sinking Fund has not, therefore, been yet submitted to the President of the United States for his approbation.

II. The Commissioners of the Sinking Fund are, by the 10th section of the act of 3d March, 1795, empowered and required, if necessary, to borrow, with the approbation of the President of the United States, the sums requisite for the reimbursement of the principal of the public debt. The general expressions, "if necessary," have been taken by the commissioners as confining the power, thus vested in them, not to the case, when the sums which they are directed to pay, annually, might exceed the probable receipts into the Treasury for that year, but to that of those receipts being insufficient to discharge all the annual expenditures, including the payments of the Sinking Fund. The question of priority of payment in favor of that fund was not taken into consideration, because, although the obligation to pay, at this time, eight millions of dollars, annually, on that account is indisputable, it is equally necessary that all the other expenses, authorized and directed by Congress, should be paid. The meaning and object of the section appeared, indeed, so obvious, that no doubt had suggested itself on that subject previous to its late discussion.

The first section of the act authorizes the Commissioners of the Sinking Fund to borrow, from time to time, such sums, in anticipation of the revenues, (not exceeding, in one year, one million of dollars,) as may be necessary for the payment of the interest on the public debt. The restrictive word is the same in this as in the 10th section of the act. If it be insisted that the necessity

of borrowing can never exist in this case, unless the revenues appropriated should fall short of the sums payable on account of the interest, there has been no year, since the law passed, in which such loan could have been legally made. It will appear, by reference to the documents D and E, that in December, 1795, a loan of \$500,000 was, by virtue of the first section of the act of 3d March, 1795, authorized by the Commissioners of the Sinking Fund, approved by the President, and obtained from the bank. The necessity of the loan is made to rest, not on a comparative view of the revenues appropriated for the payment of the interest, and of the sums payable on account of that interest, but on the general state of the Treasury, and on a general view of the receipts and expenditures for the three last quarters of 1795, and for the year 1796. The amount of revenues which were pledged for the payment of interest are there estimated, for the year 1796, at near six millions, and the amount of interest at only four millions of dollars.

The papers F and G refer to a loan of two hundred thousand dollars, obtained in December, 1798, from the bank, for the purpose of reimbursing an instalment of the principal of the loan of two millions of dollars, had of the bank, pursuant to the 11th section of the act of incorporation. The loan is, through some error of the transcriber, stated to be by virtue of the 6th section of the act of 3d March, 1795; which section does not confer any authority to borrow money. And the loan was evidently made under the tenth, and not under the first section of the act; for it is intended for the purpose of reimbursing an instalment of principal, and not for paying the interest on the public debt; and it was also made for a term of four years, (though reimbursable sooner, at the pleasure of the United States,) which could not have been done under the power vested by the first section, which directs an absolute reimbursement within a year from the time of each loan. This loan was made because there was "no surplus of revenue in the Treasury applicable to the payment of the said instalment;" by which is not meant that surplusses of revenue were alone appropriated for that object: for so much of the duties on imports, and spirits distilled, and stills, as would be sufficient to pay the instalments of that two millions loan, were appropriated by the eighth section of the act of 3d March, 1795; and the commissioners were directed, by the eleventh section of the same act, to reimburse the said instalments as they became due. Nor was there, in the year 1798, any deficiency in the revenues appropriated for the payment of interest and principal, which the Commissioners of the Sinking Fund were directed to make; for the revenues pledged exceeded, by three millions of dollars, the payments made on that account. But, at that time, as at present, the necessity of recurring to the authority to borrow, vested by the act in the commissioners, resulted from a deficiency in the general receipts, which, during that year, fell short of the general expenditures.

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Under those impressions it was stated, in the report made on the 1st instant, that it might be necessary to borrow a sum equal to the amount of the principal of the public debt, reimbursed during the year 1809; and that, provided the authority vested by the act of 3d March, 1795, should be expressly extended to the stock issued under the act of 11th February, 1807, no other provision seemed necessary for the public service of this year. And as, in the statement and estimates from which those conclusions were drawn, the moneys actually in the Treasury at the commencement of the year are stated at near ten millions of dollars, and the demands on account of public debt, for this year, at less than six millions and a half, the report was evidently founded on the supposed correctness of the construction above-mentioned. But, if that construction shall be deemed incorrect, and if the powers vested in the commissioners by the tenth section of the act of 3d March, 1795, shall be considered, by Congress, as applicable only to the case when the moneys in the Treasury, together with the probable receipts for the year, shall fall short of eight millions of dollars, the provision suggested by the report (and which was intended only to remove a doubt respecting the nature of the debt to which the powers were applicable) will not be sufficient. It will then be necessary to pass a law, giving an express authority to borrow the money which may be wanted.

I must acknowledge that, so far as relates to the extinguishment of the debt, and independent of the question respecting the true construction of the law, I perceive no material difference between the two modes. Whenever the expenses of a nation shall exceed its revenues, loans must, in some shape or another, be obtained; and the important question is, whether all the expenses incurred be really necessary, or even useful. On the decision of that question, the Secretary of the Treasury has no control. If he had, there would certainly be no necessity to borrow money in time of peace.

Permit me to add some observations explanatory of the letter written to the president of the bank, on points not immediately embraced by the resolution of the House.

There were two reasons why it was thought more eligible, in this instance, to negotiate a loan with the bank than with individuals. It is still uncertain when, and to what amount, the money may be wanted. A contract with individuals requires previous notice and arrangements, and is absolute, so as to compel Government to receive the amount lent, according to the terms of the contract. But, with the bank, it was sufficient to ascertain whether the loan could, if wanted, be obtained from that institution; the contract might be delayed till it was ascertained whether, and to what amount, the loan was necessary; and it might be avoided, altogether, if not actually necessary. The reimbursement would also be made with more convenience, and some interest saved, because the repayments may be made to the bank, from time to time, and in any

sums whatever, according to the situation of the Treasury.

In proposing to the bank that they should give notice to the Treasury of their wish to be reimbursed the whole amount of their exchanged six per cent. stock, my object was to facilitate the loan, since, by that operation, there would have been no real payment, but only a commutation of debt; and, also, to accommodate, so far as was consistent with the public interest, those individuals, who, by accepting the terms of the act of February, 1807, had become owners of exchanged six per cent. stock, and who, that stock being above par, could not desire to be reimbursed. As it related to the bank, that consideration was immaterial, as it was not presumed that they wanted to sell their stock.

I have the honor to be, &c.

ALBERT GALLATIN.

Hon. SPEAKER House of Reps.

A.—Proceedings of the Commissioners of the Sinking Fund, at a meeting held on 18th March, 1809.

At a meeting of the Commissioners of the Sinking Fund, held on the 18th March, 1809; present, Robert Smith, Secretary of State, Albert Gallatin, Secretary of the Treasury, C. A. Rodney, Attorney General United States :

The Secretary of the Treasury laid before the board a report, dated the 18th day of March, 1809, which was read, and is as follows, viz :

“That there was paid, during the year 1808, in order to complete the reimbursement of the eight per cent. stock, a sum of - \$1,547,000
On account of the public debt, for the year 1809, in advance, and on account of the annual appropriation of - - - - - 8,000,000

Leaving a sum of - - - - - 6,453,000
Which must, in conformity with existing laws, be applied, during the present year, to the payment of the principal and interest of the public debt.

That the payments to be made during the present year, on account of the interest on the debt, including the annual reimbursement of the six per cent. and deferred stocks, were estimated at - - - - - 4,226,000

Leaving a sum of - - - - - \$2,227,000
Which, the market price of stocks being above the rate fixed by law for purchases, can only be applied to the reimbursement of the exchanged six per cent. stock, in conformity with the provisions of the act supplementary to the act entitled ‘An act making provision for the redemption of the whole of the public debt of the United States.’

And that, considering the probable amount of receipts and expenditures during the present year, it is not believed that all the demands on the Treasury, including the above-mentioned sum of

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\$2,227,000, can be discharged, unless a loan can be obtained equal to the amount of principal of the public debt thus reimbursed." Whereupon,

Resolved, That a sum not exceeding \$2,250,000 be applied, during the present year, to the reimbursement of the principal of the exchanged six per cent. stock, in conformity with the provisions of the act last above-mentioned.

Resolved, That the Secretary of the Treasury be authorized, with the approbation of the President of the United States, to borrow a sum equal to that of the principal of the public debt which may be thus reimbursed, in conformity with the provisions of the tenth section of the act, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt."

R. SMITH, *Secretary of State.*

A. GALLATIN, *Sec'y Treasury.*

C. A. RODNEY, *Att'y Gen. U. S.*

B.—Letter from the Secretary of the Treasury to the President of the Bank of the United States.

TREASURY DEPARTMENT,
March 21, 1809.

SIR: The Commissioners of the Sinking Fund having directed the reimbursement of a sum not exceeding \$2,250,000, of the new exchanged six per cent. stock, and authorized, in conformity with the 10th section of the act "making further provision for the support of public credit, and for the redemption of the public debt," passed 3d March, 1795, a loan to the amount of principal thus to be reimbursed. I beg leave to inquire, 1st. Whether the Bank of the United States will be disposed to lend that sum, in two equal instalments, viz: on 1st October next, and on the 1st January, 1810, being the times at which I intended to effect the reimbursement? 2dly. Whether the bank will assent to be reimbursed the whole amount of said exchanged six per cent. stock, which they own, at the times above-mentioned?

The two propositions may be considered as independent, one of the other, it being, however, understood that, if the bank does not wish to make the loan, it would suit Government better not to reimburse the bank exclusively, but only according to lot, in common with other stockholders.

If the bank will assent to make the loan, but refuse to receive the reimbursement, (so far only excepted as may be determined by lot,) it will not be material that the sum lent should be paid by the bank into the Treasury, precisely in two instalments, as above-mentioned. The times and amounts of payments may, in that case, be arranged, when a formal agreement shall be entered into, so as to answer the wants of the Treasury, and the convenience of the bank. It is only in case the bank will accede to both propositions, that, as there will be no real payments, but only a commutation of exchanged six per cent. stock into a temporary loan, it will be necessary that the loan should be made on the same days, and for the same sums as the reimbursement.

If the bank will accede to both proposals, it will be seen, by reference to the 8th section of the act supplementary to the act, entitled "An act making provision for the redemption of the whole of the public debt of the United States, passed the 11th February, 1807, that an exclusive reimbursement of the exchanged six per cent. stock, held by the bank, cannot take place, unless notice be given to this Department, in writing, of the wish of the institution to be thus reimbursed; and that notice must reach me prior to the 30th instant, as I must otherwise determine, by lot, what certificates of that stock shall be reimbursed, and give public notice thereof, in conformity with the second section of the same act, on or before the first day of next month. I am sensible that this is pressing for an answer within a shorter time than may be convenient, but, under the pressure of current business, I did not attend to this operation till within the last three days. I therefore request that you will have the goodness to lay the subject immediately before the Board, and to favor me with the answer. If that answer be in the affirmative, I will thank you to enclose in it the notice, in writing, asking for the reimbursement, in order that such notice, unconnected with any other subject, may be filed as a voucher, authorizing me to reimburse, in conformity therewith.

I have the honor to be, &c.

ALBERT GALLATIN.

DAVID LENOX, Esq., *President, &c.*

C.—Letter from the President of the Bank of the United States to the Secretary of the Treasury.

BANK OF THE UNITED STATES,
March 24, 1809.

SIR: I lost no time in laying before the Board of Directors, your letter of the 21st inst., which I had the honor of receiving yesterday. To the first of your inquiries, namely: "Whether the Bank of the United States will be disposed to lend that sum (\$2,250,000) in two equal instalments, viz: on the 1st October next, and on the 1st January, 1810?" I am desired to state, that there is every disposition on the part of this Board to comply with the wishes of Government, but it appears to them that they are not authorized, by the act of 1795, to make a loan for the reimbursement of the stock created by the act of 1807; besides, there are considerations which now present themselves, of much importance to the institution, arising from the short duration of the charter, with which a loan, reimbursable at the pleasure of the United States, may interfere. To evince, however, the friendly disposition of the Board, they do not hesitate to agree to the loan, provided it is not wanted for a more distant period than the time when the present charter of the bank will expire, at an interest of six per cent. per annum, and provided also, a law is obtained, at the next session of Congress, giving them authority to make it.

To your second inquiry, viz: "Whether the bank will assent to be reimbursed the whole

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amount of the exchanged six per cent. which they own, at the times mentioned?" I have to reply, that the Board prefer accepting such proportion only, as may fall to the lot of the bank. In returning this answer to your letter, I hope it may be perfectly satisfactory, and an additional proof of the desire of this Board to comply with the views of Government on every occasion, when not incompatible with the interest of the institution.

I have the honor to be, &c.

D. LENOX, *President.*

HON. ALBERT GALLATIN.

D.—Proceedings of the Commissioners of the Sinking Fund, at a meeting held on the 26th of December, 1794.

At a meeting of the Commissioners of the Sinking Fund, on the 26th day of December, 1795;

Present: The President of the Senate, the Secretary of State, and the Secretary of the Treasury;

A report of the Secretary of the Treasury was read, as follows:

"That, to provide for the payment of the interest on the public debt, which will fall due at the close of the present year, it will be necessary to anticipate the appropriated revenues to the amount of five hundred thousand dollars.

"The authority to make a loan for this purpose, is contained in the first section of an act, passed on the 3d day of March, 1795, entitled 'An act making further provision for the support of public credit, and for the redemption of the public debt.'

"The Secretary proposes, that the said loan be had of the Bank of the United States, for one year, to bear interest from the 1st day of January ensuing, at the rate of six per cent. per annum, to be refunded out of the proceeds of the duties on goods, wares, and merchandise, imported, on the tonnage of ships and vessels, and upon spirits distilled within the United States, and stills, which may accrue to the end of the present year, and be then uncollected.

"That the Commissioners may be satisfied, as to the real state of the Treasury, at the latest period to which the accounts have been settled, he takes the liberty to lay before them, a copy of his report, made to the House of Representatives, on the 14th instant, in which the receipts and expenditures for the three first quarters of the present year are exhibited, and also, a view of the probable receipts and expenditures for the year 1796.

"Wherefore, the said Secretary requests that the Board of Commissioners of the Sinking Fund would resolve, that an application be made to the President of the United States, for his permission to the Secretary of the Treasury to borrow five hundred thousand dollars, on the terms and conditions before-mentioned, to be applied in the manner herein proposed."

Whereupon, it was resolved unanimously, That

the sum of five hundred thousand dollars be borrowed by the Secretary of the Treasury, for a term not exceeding one year, at a rate of interest not exceeding six per centum per annum, to commence on the first of January, 1796, pursuant to the first section of the act, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt;" and that this resolution be laid before the President of the United States, for his approbation.

JOHN ADAMS,

President of the Senate.

TIMOTHY PICKERING,

Secretary of State.

OLIVER WOLCOTT, Jr.,

Secretary of the Treasury.

Approved, December 20, 1795.

GEO. WASHINGTON.

E.—Contract between the Commissioners of the Sinking Fund and the Bank of the United States.

Articles of agreement between Oliver Wolcott, Jr., Secretary of the Treasury, in behalf of the Commissioners of the Sinking Fund, of the one part; and the President, Directors, and Company of the Bank of the United States, of the other part; made and concluded the thirty-first day of December, in the year of our Lord one thousand seven hundred and ninety-five.

Whereas, by the act, entitled "An act making further provision for the support of the public credit, and for the redemption of the public debt," passed the third day of March, in the present year, the Commissioners of the Sinking Fund, with the approbation of the President of the United States, are authorized and empowered to borrow, or cause to be borrowed from time to time, such sums, in anticipation of the revenues appropriated, not exceeding, in one year, one million of dollars. And whereas the said Commissioners of the Sinking Fund, by their resolution of the twenty-sixth day of December, one thousand seven hundred and ninety-five, approved by the President of the United States, did unanimously agree, that the sum of five hundred thousand dollars should be borrowed by the Secretary of the Treasury, for a term not exceeding one year, at a rate of interest not exceeding six per cent. per annum, to commence on the first of January, one thousand seven hundred and ninety-six, pursuant to the act before recited:

Now, therefore, these presents witness, that, pursuant to the authority aforesaid, it hath been, and is hereby, agreed, by and between the said parties of the first and second part, as follows, viz:

First. The said President, Directors, and Company, shall lend to the United States the sum of five hundred thousand dollars, to be advanced on the first day of January, one thousand seven hundred and ninety-six.

Second. The said sum, so to be advanced as aforesaid, shall bear interest at the rate of six per centum per annum, from the date before-men-

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tioned, payable on the first day of July, one thousand seven hundred and ninety-six, and on the first day of January, one thousand seven hundred and ninety seven.

Third. The United States shall reimburse or repay to the said Bank of the United States, the said sum of five hundred thousand dollars, with the interest which shall be due thereon, on or before the first day of January, in the year one thousand seven hundred and ninety-seven, reserving, nevertheless, to the United States, the right of reimbursing, at their pleasure, the whole, or any part of the said sum, which shall have been so lent and advanced, after giving one month's notice, to the President of the said Bank, of the sum intended to be reimbursed.

In testimony whereof, the said Secretary of the Treasury hath caused the seal of the Treasury to be affixed to these presents, and hath hereunto subscribed his hand; [L. s.] and the said President, Directors, and Company, have also caused the seal of the Bank of the United States to be affixed to the same, the day and year aforesaid.

OLIVER WOLCOTT,
Secretary of the Treasury.

[L. s.] THOS. WILLING,
President Bank of the U. S.

F.—Proceedings of the Commissioners of the Sinking Fund, at a meeting held on the 15th of December, 1798.

At a meeting of the Commissioners of the Sinking Fund, on the fifteenth day of December, 1798;

Present: The Hon. John Laurence, President of the Senate, the Secretary of State, the Secretary of the Treasury, and the Attorney General of the United States;

The Secretary of the Treasury laid before the Board a report, dated the fourteenth day of December, 1798, which was read, and is as follows:

"That, by the eleventh section of the act of Congress, passed on the third day of March, 1795, entitled 'An act making further provision for the support of public credit, and for the redemption of the public debt,' the Commissioners of the Sinking Fund are required to reimburse, to the Bank of the United States, the instalments due upon the loan of two millions of dollars, had of the said Bank, pursuant to the eleventh section of the act by which the same was incorporated, as the said instalments shall respectively accrue.

"That, on the last day of December, in the present year, the instalment of the aforesaid loan, being two hundred thousand dollars, will fall due to the said bank.

"There being no surplus of revenue in the Treasury applicable to the payment of the said instalments, the Secretary requests, that application be made to the President of the United States, for his permission to borrow the sum of two hundred thousand dollars, for a term not exceeding four years, to be applied to the purpose aforesaid; and, therefore, submits the following resolution:

"*Resolved*, That the sum of two hundred thousand dollars be borrowed by the Secretary of the Treasury, pursuant to the sixth section of the act, passed on the third day of March, 1795, entitled 'An act making further provision for the support of public credit, and for the redemption of the public debt,' and that the proceeds of the said loan be applied, by the said Secretary, to the payment of the seventh instalment of the loan of two millions of dollars, borrowed under the act, entitled 'An act to incorporate the subscribers to the Bank of the United States:' *Provided*, That the said loan shall, nevertheless, be reimbursable at the pleasure of the United States, and shall bear interest at a rate not exceeding six per cent. per annum, and that this resolution be laid before the President of the United States for his approbation.

"All which is respectfully submitted, by
"OLIVER WOLCOTT,
Secretary of the Treasury.

"TREASURY DEPARTMENT,
"December 15, 1798."

Whereupon, it was resolved, that the said report be accepted, and that the resolution aforesaid be laid before the President of the United States for his approbation.

JOHN LAURENCE,
President of the Senate, pro. tem.

PHILADELPHIA, Dec. 17, 1798.

Approved: JOHN ADAMS.

Recorded from the original minutes on the file, by
EDWARD JONES,
Sec'y Commissioners Sinking Fund.

G.—Contract between the Commissioners of the Sinking Fund and the Bank of the United States.

Articles of agreement between Oliver Wolcott, Secretary of the Treasury, in behalf of the Commissioners of the Sinking Fund, of the one part; and the President, Directors, and Company, of the Bank of the United States, of the other part; made and concluded the twenty-eighth day of December in the year of our Lord one thousand seven hundred and ninety-eight.

Whereas, by the act, entitled "An act making further provision for the support of public credit, and for the redemption of the public debt, passed the third day of March, one thousand seven hundred and ninety-five, the Commissioners of the Sinking Fund, with the approbation of the President of the United States, are authorized and empowered to borrow, or cause to be borrowed, from time to time, such sums, in anticipation of the revenues appropriated, not exceeding one million of dollars: And whereas the said Commissioners of the Sinking Fund, by their resolution, of the fifteenth of December, one thousand seven hundred and ninety-eight, approved by the President of the United States, did unanimously agree that the sum of two hundred thousand dollars shall be borrowed by the Secretary of the Treasury: *Provided*, nevertheless, That the said

State of the Finances.

loan shall be reimbursable at the pleasure of the United States, and shall bear interest at a rate not exceeding six per centum per annum:

Now, therefore, these presents witness that, pursuant to the authority aforesaid, it hath been, and is hereby, agreed, by and between the said parties of the first and second part, as follows, viz:

1st. The said President, Directors, and Company, shall lend to the United States the sum of two hundred thousand dollars, to be advanced on the first day of January, one thousand seven hundred and ninety-nine.

2d. The said sum, so to be advanced as aforesaid, shall bear interest at the rate of six per cent. per annum, from the date before-mentioned, payable half yearly to the said parties of the second part, during the continuance of the said loan, if the same shall be required.

3d. The United States shall reimburse, or repay to the Bank of the United States, the said sum of two hundred thousand dollars, with the interest which shall be due thereon, on or before the first day of January, which will be in the year one thousand eight hundred and three, reserving, nevertheless, to the United States, the right of reimbursing, at their pleasure, the whole, or any part of said sum, which shall have been so lent and advanced, after giving one month's notice to the President of the said Bank, of the sum intended to be reimbursed.

In testimony whereof, the said Secretary of the Treasury hath caused the seal of the Treasury to be affixed to these presents, and hath hereunto subscribed his hand; and the said President, Directors, and Company, have also caused the seal of the Bank of the United States to be affixed to the same, the day and year aforesaid.

[L. s.] OLIVER WOLCOTT,
Secretary of the Treasury.

[L. s.] THOMAS WILLING,
President.

STATE OF THE FINANCES.

[Communicated to the House, December 8, 1809.]

In obedience to the directions of the act supplementary to the act, entitled "An act to establish the Treasury Department," the Secretary of the Treasury respectfully submits the following report and estimates:

The duties on merchandise and tonnage, which accrued during the year 1807, amounted, after deducting the expenses of collection, to - - - - - \$26,126,648

From which, deducting for debentures issued on account of re-exportations - - - - - 10,067,191

Left, for the net revenue accrued during that year - - - - - \$16,059,457

The same duties, during the year 1808, amounted, after deducting the expenses of collection, to - \$10,501,559
From which, deducting for debentures issued, and which, on account of the embargo, did not exceed - - - - - 249,396

Leaves, for the net revenue accrued during that year, as will appear by the statement A - - - \$10,332,163

The statement B exhibits in detail the several species of merchandise, and other sources, from which that revenue was collected during the year 1808; and the statement Aa gives a comparative view of the importations and re-exportations of the several species of merchandise for the years 1807 and 1808, showing thereby distinctly, the effect of foreign aggressions and commercial restrictions on the importations of foreign articles.

From the returns already received for the three first quarters of the present year, and from the general knowledge of the importations made during the two last months, it is believed that the gross amount of duties on merchandise imported during the whole year will, after deducting the expenses of collection, amount to about ten millions of dollars.

But, as the debentures issued, on account of re-exportations, principally of colonial produce, will amount to about \$3,500,000, the net revenue, accrued during the year 1809, cannot be estimated at more than six millions and a half.

It appears, by the statement C, that the sales of public lands have, during the year ending on the 30th of September, 1809, amounted to 143,000 acres, and the payments by purchasers to nearly five hundred thousand dollars. The proceeds of sales in the Mississippi Territory being, after deducting the surveying and other incidental expenses, appropriated in the first place to the payment of a sum of \$1,250,000 to the State of Georgia, are distinctly stated.

It appears, by the statement D, that the payments on account of the principal of the public debt have, during the same period, amounted to nearly \$6,730,000; the reimbursement of the eight per cent. stock having taken place on the first of January last. But the aggregate of payments on account of principal and interest will not, for the two years, 1808 and 1809, exceed the sum of sixteen millions of dollars appropriated by law.

The same statement shows that about \$34,796,000 of the principal of the debt have been reimbursed during the eight years and a half, commencing on the first of April, 1801, and ending on the 30th of September, 1809, exclusively of more than six millions of dollars paid in conformity with the provisions of the convention with Great Britain and of the Louisiana convention.

The actual receipts into the Treasury during the year, ending on the 30th of September, 1809, have amounted to - - - \$9,315,753 16
Making, together with the bal-

State of the Finances.

ance in the Treasury on the 1st of October, 1808, and amounting to - - - - - 13,846,717 52

An aggregate of - - - - - \$23,162,470 68

The disbursements, during the year, have consisted of the following items, viz :

Civil department, including miscellaneous expenses, and those incident to the intercourse with foreign nations - - - - - \$1,439,633 23

Military and Naval Establishments, including the Indian department, viz :

Military, including arms and fortifications - - - - - \$3,366,403 12

Navy - - - - - 2,379,267 80

Indian department 292,303 84

Interest on the public debt - - - - - 6,037,974 76

Reimbursement of principal of the public debt - - - - - 3,126,149 15

Amounting, together, as will appear more in detail by the statement E, to - - - - - 10,603,757 14

And leaving in the Treasury, on the 30th of September, 1809, a balance of - - - - - 6,729,777 53

Amounting, together, as will appear more in detail by the statement E, to - - - - - 17,333,534 67

And leaving in the Treasury, on the 30th of September, 1809, a balance of - - - - - 5,828,036 01

\$23,162,470 68

Whence it appears that the expenses of Government, exclusively of the payments on account of the principal of the debt, have exceeded the actual receipts into the Treasury, by a sum of nearly thirteen hundred thousand dollars; and that that deficiency, as well as the reimbursement of the principal of the debt, have been paid out of the sums previously in the Treasury, or, in other words, out of the surplus of the revenue of the preceding years.

The outstanding revenue bonds may, after deducting the expenses of collection, and allowing for bad debts, be estimated to have amounted, on the 30th of September, 1809, to - - - - - \$7,500,000

The duties on the importations, during the last quarter, will not probably, after making a similar deduction, fall short of - - - - - 2,800,000

All those will fall due prior to the first day of January, 1811, and make, together with the balance in the Treasury on the 30th of September, 1809, and amounting, as above stated, to - - - - - 5,800,000

An aggregate of - - - - - \$16,100,000

The expenses of the present quarter, though not yet precisely ascertained, will not probably, including the payments on account of the public debt, exceed - - - - - 3,600,000

Leaving, on the first day of January, 1810, a sum of - - - - - \$12,500,000

About twelve and a half millions of dollars, in cash or bonds, payable during the year 1810, and applicable to the expense of that year. This estimate, however, is founded on the supposition that the amount of debentures, payable in that year, will not exceed two millions of dollars, and that the receipts, during the year, arising from importations subsequent to the first of January next, and from the sales of land, will be sufficient to pay those debentures, and to leave at all times in the Treasury, at least one million of dollars.

Estimating the expenses of a civil nature, both domestic and foreign, for the year 1810, at the same amount actually expended for those objects during the preceding year, or at about - - - - - \$1,500,000

And adding thereto the annual appropriation of - - - - - 8,000,000

For the public debt, (of which sum about three millions seven hundred and fifty thousand dollars will be applied to the final reimbursement of the exchanged six per cent. stock,) it follows that, unless the aggregate of the expenses for the Military and Naval Establishments should be reduced to about - - - - - 3,000,000

\$12,500,000

A loan will be necessary to make up the deficiency. That state of the Treasury had been anticipated; and, for that reason, an increase of duties had been respectfully submitted in the last annual report. But, should that measure be now adopted, it would not, on account of the terms of credit allowed for the payment of duties, supersede the necessity of a loan for the service of the year 1810, commensurate with the extent of those establishments, and with the appropriations which may be made for their support by Congress. No precise sum is suggested, since this must vary according to the plans which may be adopted in relation to foreign nations, and will particularly depend on the decision of Congress on the question of war or peace. It is sufficient to state that, if the actual expenditure of the year 1810, for all military and naval purposes, should be estimated at the same sum which was disbursed by the Treasury, for those objects, during the year ending on the 30th of September, 1809, and exceeding, as above stated, six millions of dollars, the deficiency, according to the preceding estimates, would amount to three millions; on which supposition, it would seem prudent, in order to provide against any deficiency in the receipts, beyond what has been estimated, to authorize a loan of four millions of dollars.

In the event of war, the necessity of rendering it efficient, and of calling for that purpose into action all the resources of the country is too obvious to require any comment. On that subject nothing will, at this time, be added by this Department to the suggestions respectfully submitted in the two preceding annual reports. Loans,

Sinking Fund.

reimbursable by instalments, and at fixed periods, after the return of peace, must constitute the principal resource for defraying the extraordinary expenses of the war. For the support of public credit, the basis on which rests the practicability of obtaining loans on reasonable terms, it appears necessary that the revenue should, in the meanwhile, be equal to the interest on the public debt, including that on the new loans, and to all the current expenses of Government, calculated on a Peace Establishment, or, for the present, to about eight millions of dollars. An immediate and considerable increase of the existing duties will, it is believed, be requisite for that purpose, in order to cover the defalcation which a maritime war must necessarily produce in a revenue almost exclusively depending on commerce. That increase appears preferable, in the present situation of the United States, to any other source of taxation, and is not, in time of war, liable to the objection of its encouraging smuggling. It is only in the event of that revenue being still more affected by a war than is apprehended, that a resort to internal taxes, either direct or indirect, may become necessary.

If war should not be resorted to, it does not appear requisite, unless Congress should resolve on a permanent increase in the Military and Naval Establishments, in time of peace, to lay, at present, any additional duties, beyond a mere continuance of the two and a half per cent. known under the name of "Mediterranean Fund." It has already been stated, that an increase of the impost would not supply the deficiency which may take place in the year 1810; and exclusively of the reimbursement of the loan which may be wanted for the service of that year, all the national expenses, calculated on a Peace Establishment and on the average of the actual expenditures of the six years, 1802 to 1807, will not exceed ten millions of dollars for the year 1811, and eight millions after that year; for, the only portion of the existing debt, which, according to law, it will be practicable, after the year 1810, to reimburse, will, exclusively of the annual reimbursement of the six per cent. and deferred stocks, consist only of the converted six per cent. stock, which amounts to less than two millions of dollars. The payments on account of the annual appropriation of eight millions of dollars. for the debt, cannot, for that reason, except for the purpose of reimbursing the loan which may be wanted for the service of the year 1810, much exceed six millions of dollars in the year 1811, and four millions of dollars, annually, after that year. The expenses for the year 1811, and the ensuing years, may therefore, if calculated on a Peace Establishment, be estimated as follows, viz:

Civil expenses, both domestic and foreign	- - - - -	\$1,500,000
Military and Naval Establishments, (including the Indian department) calculated on the average of the actual expenditure for those objects during the six years, 1802—1807, as will appear by the statement F, about		2,500,000

Interest on the public debt, including the annual reimbursement on the six per cent. and deferred stocks,	-	4,100,000
Total of the annual expenses after the year 1811,	- - - - -	8,100,000
Reimbursement of the converted six per cent stock	- - - - -	1,860,000
Total of expenses for the year 1811	-	\$9,960,000

Whatever may be the decision of Congress, in other respects, there is a subject which seems to require immediate attention. The provisions adopted for the purpose of carrying into effect the non-intercourse with England and France, particularly as modified by the act of last session, under an expectation that the Orders of Council of Great Britain had been revoked, are inefficient, and altogether inapplicable to existing circumstances. It will be sufficient to observe, that exportation by land is not forbidden; and that no bonds being required from vessels ostensibly employed in the coasting trade, nor any authority vested by law which will justify detention, those vessels daily sail for British ports, without any other remedy but the precarious mode of instituting prosecutions against the apparent owners. It is unnecessary, and it would be painful, to dwell on all the effects of those violations of the laws. But, without any allusion to the efficiency or political object of any system, and merely with a view to its execution, it is incumbent to state, that, from the experience of the two last years, a perfect conviction arises, that, either the system of restriction, partially abandoned, must be reinstated in all its parts, and with all the provisions necessary for its strict and complete execution, or, that all the restrictions, so far, at least, as they affect the commerce and navigation of the citizens of the United States, ought to be removed.

All which is respectfully submitted.
ALBERT GALLATIN,
Secretary of the Treasury.
TREASURY DEPARTMENT, Dec. 7th, 1809.

SINKING FUND.

[Communicated to the Senate, February 5, 1810.]
WASHINGTON, Feb. 5. 1810.

The Commissioners of the Sinking Fund, respectfully report to Congress as follows:

That the measures which have been authorized by the Board, subsequent to their last report of the 4th of February, 1809, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to this Board, dated the second day of the present month, and in the statements therein referred to, which are herewith transmitted, and prayed to be received as a part of this report.

G. CLINTON, *President of Senate.*
A. GALLATIN, *Secretary Treasury.*
C. A. RODNEY, *Attorney General.*

Sinking Fund.

TREASURY DEPARTMENT, Feb. 2, 1810.

The Secretary of the Treasury respectfully reports to the Commissioners of the Sinking Fund—

That the balance remaining unexpended at the close of the year 1807, and applicable to payments falling due after that year, which balance, as appears by the statement B, annexed to the last annual report, amounted to - - - \$820,718 09

Together with the disbursements made during the year 1808, out of the Treasury, on account of the principal and interest of the public debt; which disbursements, as appears by the statement C, annexed to the last annual report, amounted to - - 10,330,013 60

And amounting together, to - \$11,150,731 69

Have been accounted for in the following manner:

I. There was repaid into the Treasury, during the year 1808, on account of the principal of moneys heretofore advanced for the payment of interest and reimbursement of the funded domestic debt, and of moneys advanced for the purchase of stock, as appears by the statement E, annexed to the last annual report - - - \$68,795 11

II. The sums actually applied during the same year, to the payment of the principal and interest of the public debt, as ascertained by accounts rendered to the Treasury Department, amount, as will appear by the statement A, to \$10,430,833 25, viz:

1. Paid in reimbursement of the principal of the debt, and including the whole of the eight per cent. stock - - - \$6,988,222 01

2. Paid on account of the interest and charges on the same - 3,442,611 24

10,430,833 25

III. The balance remaining unexpended at the close of the year 1808, and applicable to payments falling due after that year, as ascertained by accounts rendered to the Treasury Department, amounted, as will appear by the statement B, to - - - 651,103 33

\$11,150,731 69

That, during the year 1809, the following disbursements were made out of the Treasury on account of the principal and interest of the public debt, viz:

1. On account of the reimbursement of the domestic funded debt - - - \$5,750,065 22

2. On account of the domestic unfunded debt, viz:

Payment of registered debt - - - \$258 11

Payment of debts due to foreign officers - 13,307 41

13,565 52

3. On account of interest on the Louisiana stock, and on exchanged and converted stocks, payable in Europe 689,067, 78

Amounting altogether, as will appear by the annexed list of warrants, marked C, to - - - \$6,452,698 52

Which disbursements were made out of the following funds, viz:

1. From the funds constituting the annual appropriation of eight millions of dollars, for the year 1809:

From the fund arising from the interest on the debt transferred to the Commissioners of the Sinking Fund, as per statement I - \$1,434,773 72

From the funds arising from the sale of public lands, being the amount paid into the Treasury, from the 1st October 1808, to the 30th September, 1809, as per statement K - 462,395 23

From the proceeds of duties on all goods, wares, and merchandise, imported, and on the tonnage of vessels - - - 4,554,297 42

Amounting in all to - \$6,451,466 37

Which sum of - 6,451,466 37

Together with the sum advanced during the year 1808, on account of the appropriation for the year 1809, amounting, as by the last annual report, to \$1,547,301 48, which ought to have been stated, as explained in the note at the foot of this report at - 1,548,533 63

Makes the amount of the appropriation for the year 1809 - - \$8,000,000 00

2. From the proceeds of duties on goods, wares, and merchandise, imported, and on the tonnage of vessels, advanced, in part, and on account of the annual appropriation of eight millions for the year 1810 - - \$1,087 79

3. From repayments into the Treasury on account of remittances purchased to provide for the interest on the Louisiana stock, as will appear by the statement E, viz:

Repayment of principal advanced from Treasury - - - \$93 20

Costs recovered - - 51 16

144 36

6,452,698 52

That the above mentioned disbursements, together with the above stated balance, which remained unexpended at the close of the year 1808, of - 651,103 33

And amounting, altogether, to - - \$7,103,801 85

Loans and Additional Revenue.

Will be accounted for in the next annual report, in conformity to the accounts which shall then have been rendered to the Treasury Department.

That, in the meanwhile, the manner in which the said sum has been applied is estimated as follows:

I. The repayments into the Treasury, on account of the principal, have, during the year 1809, amounted, as by the above mentioned statement

E, to - - - - - \$93 20

II. The sums actually applied, during the year 1809, to the principal and interest of the public debt, are estimated as follows:

1. Paid in reimbursement of the principal of the public debt, and including the last instalment of the Dutch debt - - - - -

3,826,479 26

2. Paid on account of interest and charges on the same - - -

2,915,776 76

6,742,256 02

As will appear by the estimate F.

III. The balance which remained expended at the close of the year 1809, and applicable to payments falling due after that year, is estimated, per estimate G, at - - - -

361,452 63

\$7,103,801 85

That, in conformity to the proceedings and resolutions of the Commissioners of the Sinking Fund, of the 18th of March, 1809, a copy whereof, marked L, is hereunto annexed, there was reimbursed on the 1st October, 1809, in the manner prescribed by the eighth section of the act of February 11, 1807, a portion of the exchanged six per cent stock, created by virtue of that act, amounting to \$1,151,469 11

And there was paid, for the reimbursement of a portion of the same, on the 1st of January, 1810, the sum of -

1,090,749 10

Amounting, together to - - - \$2,242,218 24

Which sum of \$2,242,218 24, forms a part of the sum of \$3,826,479 26, above stated as the amount of principal of the public debt reimbursed in the year 1809.

That the loan authorized by the last of the above resolutions of the Commissioners has not been made, there having been no necessity for resorting to it.

And that the statement H exhibits the amount of stock transferred to the Commissioners of the Sinking Fund, and to the Treasurer of the United States, in trust for said States, and standing to their credit on the books of the Treasury, on the 31st December, 1809, no stocks having been transferred in payment for lands during the year 1809.

All which is respectfully submitted.

ALBERT GALLATIN.

NOTE in relation to the advance made during the year 1808.

This advance was stated, in the annual report to the Commissioners of the Sinking Fund, dated February 3, 1809, at the sum of - - - \$1,547,301 48

To which is to be added the sum of \$1,232 15, which was stated in the report dated February 4, 1808, as having been paid during the year 1807, out of the additional appropriation made by the fifth section of the act of April 29, 1802, for the payment of commissions to the agents employed in the purchase of remittances for the Dutch debt, when, in fact, the said sum was not paid out of that appropriation, but out of the appropriation of eight millions of dollars, it having been paid for commissions on the purchase of remittances for interest on the Louisiana stock, which are not embraced by the fifth section of the act of April 29, 1802. This sum, therefore, as it diminishes the amount short advanced in the year 1807, on the appropriation of eight millions, forms an addition to the amount over advanced at the end of the year 1808, on account of the appropriation of eight millions for the year 1809, and is here added - -

1,232 15

\$1,548,533 68

LOANS AND ADDITIONAL DUTIES.

[Communicated to the House, March 21, 1810.]

JANUARY 8th, 1810.

SIR: Having stated, in your several reports, that loans would constitute the principal resource of the United States for defraying extraordinary expenses, the Committee of Ways and Means have instructed me to request that you will report your opinion as to the most eligible mode of obtaining money by loan; keeping in view, both the facility of borrowing sums, commensurate with the exigencies of the United States, and the ultimate extinguishment of the debt contracted.

You have already given your opinion in favor of an increase of duties on importation. To what extent can this be carried with safety? Can any other resources, except taxes and loans, be relied on, for immediate revenue?

I have the honor to be, &c.

JOHN W. EPPES.

Hon. A. GALLATIN, Sec'y Treasury.

TREASURY DEPARTMENT, Feb. 26, 1810.

SIR: I have the honor to submit the following observations in answer to the several objects of inquiry embraced by your letter of the 8th ultimo. The amount of extraordinary expenses which may be authorized by Congress being yet unascertained, it is not, even at this time, practicable to state, with precision, the sum which may be wanted on loan for the service of this year. And, in relation to ensuing years, it would be premature to lay down any general rules respecting the most eligible mode of borrowing

Loans and Additional Duties.

sums of money, commensurate with the exigencies of the United States in case of war. It is, therefore, thought sufficient, for the present, to point out some of the most obvious means of effecting loans generally, leaving it a subject of subsequent consideration to decide, according to existing circumstances, on the most eligible mode, and on the arrangement of details.

The inquiries of the Committee of Ways and Means apply to the three following points: 1st. What is the most eligible mode of obtaining money by loan, keeping in view both the facility of borrowing sums, commensurate with the exigencies of the United States, and the ultimate extinguishment of the debt contracted? 2dly. To what extent can an increase of importation be carried with safety? 3dly. Can any other resources, besides taxes and loans, be relied on for immediate revenue?

Loans.—1st. The Commissioners of the Sinking Fund will, out of the annual appropriation of eight millions of dollars for the payment of the debt, reimburse, in 1810, the residue of the exchanged six per cent. stock, amounting to \$3,750,000, and in 1811, the whole of the converted six per cent. stock, amounting to \$1,860,000. It is probable that the owners of those two species of stock would consent to re-loan the amount, provided it was made irredeemable for a few years.

2d. It has already been stated, in the annual report of November 5th, 1807, referred to in that of this year, "that the several banks of the United States might find it convenient, as the diminished commerce of the country might require less capital, to loan to Government a considerable portion of their capital stock, then computed at about forty millions of dollars." Such temporary loans can be obtained only to a limited amount, but they are convenient in two respects: 1st. They do not diminish the facility of obtaining other loans from individuals, inasmuch as they do not increase the amount of stock at market. 2dly. Being redeemable at will, and in any sums which may suit the convenience of Government, interest is paid only as long as the money is wanted; and the extinguishment of the debt contracted is rendered more easy and certain.

3d. Loans may be obtained from individuals to an extent commensurate with the national capital, and limited by the existing demand for that capital for private purposes. The terms must vary according to circumstances, always giving the preference to the most simple form that can effect the object. A portion of the public lands may, perhaps, if necessary, either as a premium, or by giving an option to subscribers, be advantageously applied in facilitating loans, or improving their terms.

4th. Treasury notes, bearing interest, and payable to order, one year after date, may be annually issued, to a moderate amount, and be put in circulation, both through the medium of banks, and in payment of supplies. A portion would be absorbed during the year by the payment of public lands and revenue bonds, and the redemption of the residue be provided for by the loan of the en-

suing year. This annual anticipation of the revenue, though liable to abuse, may, if kept within strict bounds, facilitate both the collection of the revenue and the loans themselves.

In relation to the extinguishment of the debt contracted, those who borrow can do nothing more than to provide and pledge funds sufficient for that object, and to give such a form to the debt as may not impede its redemption. To render it irredeemable for no longer time than is necessary in order to obtain the money; to make it reimbursable by instalments, at fixed periods; never to create, for the sake of diminishing the annual interest, a greater nominal amount of stock than the sum actually borrowed; and above all, never incur expenses which are not actually necessary for the defence or welfare of the country; are principles essential for a nation which does not contemplate a system of perpetual and increasing debt. But, for its actual reimbursement, we must principally depend on the return of prosperous circumstances, on the growing resources of the country, and on the wisdom of our successors. The artificial provisions of a sinking fund may always be rendered inefficient by the necessities or extravagance of Government. The real amount of a national debt cannot be diminished, unless the aggregate of revenue, including the funds assigned to the sinking fund, and exclusively of new loans, exceeds the aggregate of expenditures, other than those for the payment of the principal of the debt. Favorable circumstances, and a rigid economy in the current expenses, have enabled the United States to reimburse, during the last eight years, one half of the debt created by the Revolutionary war, and during some of the ensuing years. Similar circumstances, and an adherence to the same principles, will be requisite to secure the actual reimbursement of the debt which it may now be necessary to contract. But, that Government will possess resources amply sufficient for that object, cannot be doubted. The proceeds of the public lands would alone, slowly, perhaps, but certainly, extinguish a much greater debt than the United States have at now in their power to create. And it is sufficiently ascertained that the national wealth of the United States, and, therefore, the means of raising revenue, increase in a ratio still more rapid than their population—a population which almost doubles every twenty years.

These considerations, connected with others, stated at large in the annual reports of November, 1807, and December, 1808, produced a conviction that loans might, without danger, be resorted to as the principal resource for supporting a war. Permit me, at the same time, to observe that the suggestion has been confined to that object alone, and that, excepting the case of war, either immediate or contemplated, it appears consistent with sound policy to raise, during the year, the means of defraying all the national expenses, borrowing no larger sum than the amount of principal of old debt paid during the year. The propriety of providing, even in time of war, a revenue equal to the annual expenses on a peace establishment,

Loans and Additional Duties.

the interest of the existing debt, and that on the loans which may be raised, has, also, been suggested in former reports.

Increase of Duties.—On that subject, but little can be added to the opinions expressed on former occasions. I still think that this source of revenue is, in the United States and at this time, the most productive, the easiest to collect, the least burdensome to the great mass of the people; and that the duties on importation, generally, may, in case of war, be doubled, without inconvenience or danger.

In time of peace, and particularly under existing circumstances, habits of smuggling might be promoted by so great an increase. But the precise rate which may, with safety, be adopted, can only be a matter of opinion, to be tested by experience. I would not hesitate, however, to mention an additional duty of five per cent, on merchandise paying ad valorem duties of 33½ per cent, on the existing duties on all other articles, as attended with very little danger, and preferable to any other new source of taxation. A renewal of the duty on salt, which produced six hundred thousand dollars a year, may be exceptionable in other respects, but, on account of the bulk of the article, is liable to no objection in the present view of the subject.

It was stated, in the annual report of December last, that an increase of duties would, not on account of the terms of credit allowed for the payment of duties, supersede the necessity of a loan for the service of this year. The amount of that loan might, of course, be diminished, if no credit, or a credit of only sixty days, was allowed for the payment of the proposed additional duties.

Public Lands.—These constitute the only great national resource exclusively of loans and taxes. They have already been mentioned as forming a fund for the ultimate extinguishment of the public debt; and the possibility of their being used as a means of facilitating loans, has been suggested. A portion might also be usefully applied as a bounty to officers and soldiers, whenever it may become necessary to raise a considerable force. But, as an object of immediate revenue, I much doubt whether this can be materially increased without a radical change in the present system.

Not less than ten land offices are now in full operation, offering a great choice of good lands, situated in various climates, and suited to the habits of the citizens of every portion of the Union. They are sold at the rate of two dollars and sixty-four cents, if paid for at the time of purchase, and in tracts of one hundred and sixty acres. As much is sold as there is actual demand for land in similar situations at that price. The sales are, however, almost exclusively confined to those who are, or intend to become, actual settlers, and all the money which can be raised by that description of purchasers, is annually paid to the United States. In order to increase immediately the amount of sales, a different capital from that which has heretofore been

applied to that object, the capital of persons who will purchase for the purpose of selling again, with a profit, must be brought into action. But it is evident that no person will purchase lands, at the present price, as an object of speculation, whilst the United States continue to sell at the same price in small tracts. To effect the proposed object, it would be necessary not only to reduce the price, but to make a difference between that of lands sold in large tracts, and that asked for small tracts, sufficient to encourage purchases on an extensive scale. That alteration might produce an additional revenue, but appears to me extremely injurious in other respects. The present system of sales has been tried, and answers the expectations of the Legislature. A gradual increase must, notwithstanding some temporary fluctuations, necessarily take place. On that I would rely; nor would I venture to suggest any other change than that already proposed on a former occasion—a moderate and general reduction of prices, discontinuing, at the same time, all sales on credit, but continuing to sell, at the same rate, large or small tracts of land.

I have the honor to be, very respectfully, sir,
your obedient servant.

ALBERT GALLATIN.

Hon. J. W. EPPES, *Chairman, &c.*

Extract from the Annual Report of the Secretary of the Treasury, dated November 6, 1807.

It will be sufficient to state, 1st. That it appears necessary to provide a revenue at least equal to the annual expenses on a peace establishment, the interest of the existing debt, and the interest on the loans which may be raised. 2d. That those expenses, together with the interest of the debt, will, after the year 1808, amount to a sum less than seven millions of dollars, and, therefore, that, if the present revenue, of fourteen millions five hundred thousand dollars, shall not be diminished more than one half by a war, it will still be adequate to that object, leaving only the interest of war loans to be provided for.

Whether taxes should be raised to a greater amount, or loans be altogether relied on, for defraying the expenses of a war, is the next subject of consideration.

Taxes are paid by the great mass of the citizens, and immediately affect almost every individual of the community; loans are supplied by capitals, previously accumulated by a few individuals. In a country where the resources of individuals are not generally and materially affected by the war it is practicable and wise to raise by taxes the greater part at least of the annual supplies. The credit of a nation may, also, from various circumstances, be, at times, so far impaired, as to leave no resource but taxation. In both respects, the situation of the United States is totally dissimilar.

A maritime war will, in the United States, generally and deeply affect, whilst it continues, the resources of individuals; as not only commercial profits will be curtailed, but principally

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because a great portion of the surplus of agricultural produce necessarily requires a foreign market. The reduced price of the principal articles exported from the United States will operate more heavily than any contemplated tax. And, without inquiring whether a similar cause may not still more deeply and permanently affect a nation at war with the United States, it seems to follow, that, so far as relates to America, the losses and privations, caused by the war, should not be aggravated by taxes, beyond what is strictly necessary. An addition to the debt is doubtless an evil: but experience having now shown with what rapid progress the revenue of the Union increases in time of peace, with what facility the debt, formerly contracted, has, in a few years, been reduced, a hope may confidently be entertained that all the evils of the war will be temporary, and easily repaired; and that the return of peace will, without any effort, afford ample resources for reimbursing whatever may have been borrowed during the war.

The credit of the United States is also unimpaired, either at home or abroad; and it is believed that loans, to a reasonable amount, may be obtained on eligible terms. Measures have been taken to ascertain to what extent this may be effected abroad. And it will be sufficient here to suggest, that the several banks of the United States may find it convenient, after the ensuing year, and as the diminished commerce of the country may require less capital, to loan to Government a considerable portion of their capital stock, now computed at about forty millions of dollars.

It might be premature to enter into a particular detail of the several branches of revenue, which may be selected, in order to provide for the interest of war loans, and to cover deficiencies in case the existing revenue should fall below seven millions of dollars. A general enumeration seems at present sufficient.

1. Not only the duty on salt and the Mediterranean duties may be immediately revived, but the duties on importation, generally, may, in case of war, be considerably increased, perhaps doubled, with less inconvenience than would arise from any other mode of taxation. Without resorting to the example of other nations, experience has proven that this source of revenue is, in the United States, the most productive, the easiest to collect, and the least burdensome to the great mass of the people. In time of war, the danger of smuggling is diminished; the scarcity of foreign articles prevents the duty ever falling on the importer; the consumers are precisely those members of the community who are best able to pay the duty; and the increase of domestic manufactures, which may be indirectly affected, is, in itself, a desirable object.

2. Indirect taxes, hower ineligible, will, doubtless, be cheerfully paid as war taxes, if necessary. Several modifications of the system formerly adopted might, however, be introduced, both in order to diminish some of the inconveniences which were experienced, and, particularly, to insure the collection of the duties.

3. Direct taxes are liable to a particular objection, arising from the unavoidable inequality produced by the general rule of the Constitution. Whatever difference may exist between the relative wealth, and consequent ability of paying, of the several States, still the tax must necessarily be raised in proportion to their relative population. Should it, however, become necessary to resort to that resource, it is believed that a tax raised upon that species of property in each State, which, by the State laws, is liable to taxation, as had originally been contemplated by Congress, would be preferable to a general assessment, laid uniformly on the same species of property in all the States, as was ultimately adopted."

Extract from the Annual Report of the Secretary, of the Treasury, of December 10th, 1808.

"It is certainly only with a view to war, either immediate or contemplated, that it will become necessary to resort, at least to any considerable extent, to extraordinary sources of supply.

Legitimate resources can be derived only from loans or taxes; and the reasons which induce a belief that loans should be principally relied on, in case of war, were stated in the annual report of last year. That opinion has been corroborated by every subsequent view which has been taken of the subject, as well as by the present situation of the country. The embargo has brought into, and kept in the United States, almost all the floating property of the nation. And whilst the depreciated value of domestic products increases the difficulty of raising a considerable revenue by internal taxes, at no former time has there been so much specie, so much redundant unemployed capital, in the country. The high price of public stocks, and indeed of all species of stocks, the reduction of the public debt, the unimpaired credit of the General Government, and the large amount of existing bank stock in the United States, leave no doubt of the practicability of obtaining the necessary loans on reasonable terms.

The geographical situation of the United States, their history since the Revolution, and, above all, present events, remove every apprehension of frequent wars. It may, therefore, be confidently expected, that a revenue derived solely from duties on importations, though necessarily impaired by war, will always be amply sufficient, during long intervals of peace, not only to defray current expenses, but also to reimburse the debt contracted during the few periods of war.

No internal taxes, either direct or indirect, are therefore contemplated, even in the case of hostilities carried on against the two great belligerent Powers. Exclusively of the authority which must, from time to time, be given to borrow the sums required, (always providing for the reimbursement of such loans within limited periods) and of a due economy in the several branches of expenditure, nothing more appears necessary than such modifications, and increase of the duties

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on importations, as are naturally suggested by existing circumstances.

Although importations have already considerably diminished, and may, under the system now in force, shortly be altogether discontinued, no reasonable objection is perceived against an increase of duties on such as may still take place.

Had the duties been doubled on the 1st of January, 1808, as was then suggested, in case of war, the receipts into the Treasury, during that and the ensuing year, would have been increased nine or ten millions of dollars. Those articles of most universal consumption, on which an increase of duty would be inconvenient, are generally either free of duty, or abundant; it is, therefore, proposed, that not only the Mediterranean duties, which will expire on the first day of January next, should be continued, but that all the existing duties should be doubled on importations subsequent to that day."

UNSETTLED ACCOUNTS.

[Communicated to the House, March 23, 1810].

Mr. QUINCY made the following report: The committee to whom was referred the report of the Comptroller of the Treasury, transmitting a statement of the unsettled accounts of the Treasury, War, and Navy Departments, in conformity with the act passed the 3d of March, 1809, have taken that subject into their consideration, and have deemed it their duty particularly to inquire into the actual state of those balances, which, by that report, appear of great nominal amount, and of which no account had been rendered, notwithstanding a considerable length of time had, in many cases, elapsed, since the termination of those services, on which the public moneys had been originally advanced. It appeared to your committee due, both to the individuals charged with those balances and to the public, that all the knowledge possessed by the officers of the Treasury, tending to reduce the amount of those nominal balances, should be ascertained and communicated, to the end that, on the one hand, injurious suspicions should not be allowed to circulate under the sanction of a Treasury statement; and, on the other, that real delinquency should not remain concealed, or find countenance in the number and greatness of these unsettled balances.

Your committee, therefore, addressed a letter to the Comptroller of the Treasury, containing a list of the names of all those individuals who appeared, from his report, to have "rendered no account," and whose accounts, from the greatness of the balances stated, required, in the opinion of the committee, a more distinct elucidation, and requested, in relation to these accounts, a particular statement of all credits, which, either from informal evidence, or from the operation of the laws relative to appropriation and expenditure, or from known services rendered, were, within the knowledge of the officers of the Treas-

ury, just and certain offsets against the nominal balance stated, in his report, as due from each individual. The letters marked A and B, annexed to this report, contain the information requested from the Comptroller of the Treasury, and compress, as far as the knowledge of the officers of the Treasury authorizes, the sphere of apparent delinquences of each of those individuals.

The greatness of these nominal balances, and the length of time which had been permitted to elapse, with respect to some of them, without account rendered or demanded, indicated, in the opinion of your committee, a state of accountability for public moneys, not sufficiently safe for the public, nor just to individuals. The laws, also, relative to this subject, appeared to them, upon examination, susceptible of amendment. They establish no fixed periods, within which receivers of public moneys shall account with the Treasury. They leave the time of calling receivers of public moneys to account wholly to the discretion of the Comptroller of the Treasury. They require, in order to charge the debtor with costs, a previous notice from the Comptroller, which protracts and embarrasses the enforcing adjustment of accounts. The tendency of these defects in the law has been to render receivers of public moneys negligent in rendering their accounts, and to expose the officers of the Treasury to inconvenience in compelling settlement. By entrusting so wide and general a discretion to those officers, there is thrown upon them an unnecessary and inexpedient responsibility. With respect to receivers of public moneys, in foreign countries, the effect has often been to procrastinate any settlement of their accounts until their return to the United States; when, from the length of time which has intervened, and the difficulty of rectifying mistakes or deficiencies in vouchers, at a distance from the place where the expenditure was incurred, an expeditious and satisfactory adjustment is almost always difficult, and sometimes impracticable. Your committee, therefore, addressed a letter to the Secretary of the Treasury, making inquiry whether, in his opinion, the provisions of the law, relative to the accountability of the agents and receivers of public moneys, both at home and in foreign countries, were as complete as the public good requires, or as the nature of each particular service will permit, and requesting that, if the present system, in his opinion, was susceptible of any practical amendment, so as to insure a more regular and punctual adjustment of the public accounts, that he would furnish your committee with a statement of such as he thought advisable.

The letters marked C and D, annexed to this report, contain the reply of the Secretary of the Treasury to that letter. In conformity with the principles recommended by him and the Comptroller, your committee have prepared a bill, which accompanies this report, and which they ask leave to present for the consideration of the House.

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A.

TREASURY DEPARTMENT,

Comptroller's Office, February 28, 1810.

SIR: On the receipt of your letter, of the 25th ultimo, application was immediately made to the Department of State, for the information required by the committee. This information is communicated by a letter, dated yesterday, from the head of that Department. Hence the cause of the delay which has taken place.

The report which I had the honor to submit to the House of Representatives, at an early period of the session, in obedience to the act of the third of March, eighteen hundred and nine, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," contained all the information which the Treasury Department afforded. To prevent improper and unfavorable impressions, I thought it necessary to observe, that "some of the balances standing on the books of the Treasury, although nominally large, will, without doubt, be greatly lessened, if not wholly extinguished, when a settlement shall take place, particularly those against foreign ministers and agents; the advances having been made on account of salary and other official expenditures." Any further remark was deemed unnecessary.

The information received from the Department of State, enables me to be more particular with respect to those persons, a list of whose names is contained in your letter; that is to say:

	Nominal balance.
James Monroe - - -	\$81,555 63
Charles Pinkney - - -	66,117 84
William Pinkney (as Minister Plenipotentiary) - - -	42,117 78
William Smith - - -	34,964 69
Joseph Donaldson, jr. - - -	490,139 55
Christopher Gore - - -	53,222 22
Christopher Gore and Wm. Pinkney - - -	40,943 59
William Pinkney (as commissioner) - - -	55,646 41
Samuel Sitgreaves - - -	15,247 20

On the settlement of the accounts of Mr. Monroe, he will be credited with his salary, viz: nine thousand dollars per annum, from the 12th of January, 1803, to the 15th November, 1807; an outfit equal to a year's salary; and a quarter's salary for the expenses of returning home. He will also be entitled to credit for a salary of one thousand three hundred and fifty dollars per annum, paid to the Secretary of Legation, during the period of service. Also, for contingent expenditures, such as postages, couriers, &c., usually allowed in similar cases.

Mr. Charles Pinkney will be credited with the same amount for outfit, and for salary from the 10th of July, 1801, to the 2d October, 1805, and a quarter's salary for the expenses of returning. Also, with one thousand three hundred and fifty dollars per annum to a Secretary of Legation,

during his term of service, and for the usual contingent expenditures.

Similar allowances will be passed to the credit of Mr. William Pinkney, when his account at Minister Plenipotentiary shall be rendered, after the termination of his mission.

Mr. Smith's mission, as Minister Plenipotentiary at Lisbon, commenced on the 18th of July, and ceased on the 9th of September, 1801. He will be entitled to similar credits.

Mr. Gore's account as a commissioner, under the 7th article of the treaty of 19th November, 1794, has since been settled, and the balance due from him to the United States is ascertained to be \$900 69.

Mr. William Pinkney, as a commissioner, under the same treaty, will be entitled, on the settlement of his account, to credit for salary, from the 17th of May, 1796, to the 23d day of February, 1804, and for a quarter's salary for the expense of returning. The salary fixed by law is \$6,667 50 per annum.

Mr. Sitgreaves was a commissioner under the 6th article of the same treaty. His compensation commenced on the 20th of November, 1798, and ceased on his return from London, which was, as stated in his letter, in June, 1801. The salary fixed by law, is four thousand four hundred and forty-five dollars per annum. This Board ceased to act on 31st July, 1799; but it was the intention of the then President, that his salary should be continued until his return from London, whither he had been sent on the business of the Board. This intention appears in a letter from the Secretary of State, to Rufus King, Esq., of the 8th of February, 1800, an extract of which is here given: "I give Mr. Sitgreaves a letter, desiring him to draw on you for his expenses, which are to be defrayed by the United States. He will, besides, receive here, his salary as a commissioner under the 6th article of the British treaty." Under this authority, Mr. Sitgreaves conceives that he is not liable to account. In his letter to me, he observes, "It must be obvious that such an arrangement excluded all idea of accountability; and that, from the nature of the case, it would be impossible, or, if possible, could not have been expected, that I should keep or render an account or vouchers for the numberless items of detail which enter into the expenses of a gentleman abroad." My view of the circumstances of this case, however, being different from that of Mr. Sitgreaves, I shall persist in requiring an account from him.

Mr. Donaldson was appointed Consul of the United States, at Tripoli and Tunis, on the 28th of March, 1795, and on the 10th of July, he was superseded, in both appointments, by Mr. Cathcart, at the former place, and by Mr. Eaton at the latter. These gentlemen, however, did not sail from the United States until December of the following year.

Mr. Donaldson was also employed in ascertaining and agreeing upon the provisional or preliminary articles of a treaty with Algiers; and he was authorized, under the directions and instruc-

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tions of Colonel Humphreys, to cause the money appropriated by law for that purpose, to be paid at Algiers, in the manner to be agreed upon. Mr. Donaldson, while employed in these agencies, was allowed his expenses, and one hundred dollars per month. After he was established as Consul, he was entitled only to the salary limited by law. I have no information as to the precise time when his consulate ceased, nor has any account of the money paid by him, under the treaty with the Regency of Algiers, been rendered.

The amount standing to the debit of Mr. Donaldson, was ascertained upon the settlement of the accounts of bankers and foreign agents, as particularized below.

Thomas Pinkney	-	-	-	\$444 44
Richard O'Brien	-	-	-	2,000 00
J. and F. Baring and Co.	-	-	-	186,405 93
J. Bulkeley and Son	-	-	-	614 27
Parish and Co.	-	-	-	75,674 91
H. and A. Fonnereau	-	-	-	140,000 00
J. Dohram and Co.	-	-	-	85,000 00

\$490,139 55

The foregoing accounts, except the two first, were settled in the month of August last.

The correspondence with foreign Ministers and agents, during their residence abroad, is with the Department of State. Upon their return to the United States, their accounts are usually rendered to that Department, and from thence transmitted to the Treasury Department. Where a balance appears against a foreign minister or agent, upon the books of the Treasury, he is called upon by the Comptroller, to render his accounts. There is no fixed period for the performance of this duty. In the exercise of his discretion, the officer must be governed by a knowledge of the character and circumstances of the agent, the nature of his service, and the probability of the result of an adjustment of his accounts. With respect to the practice which has obtained in such cases, it is scarcely necessary to add to what has been premised. A letter from this office, dated 27th of September, 1803, to Colonel Humphreys, affords, I believe, the first instance of a call on a Minister of the United States, to render his accounts. A few settled promptly; and an adjustment of the accounts of others, after they were rendered, were unavoidably postponed, for want of the requisite vouchers.

An abstract of the proceedings of the board of commissioners under the 7th article of the treaty of 1794 has been received from the Department of State. By this abstract, it appears that the expenses of the Board, including the salary of the fifth commissioner, amounted to £21,802 17 6 sterling, which sum, at the rate of \$4 44, to the pound sterling, is equal to \$96,804 76.5. The abstract does not show what part of this account was paid by the commissioners of the United States. It appears, however, that, upon a final adjustment of the accounts of the Board, in London, on the 23d of February, 1804, there remained

a surplus of £526 4 9, to be returned to the Government of the United States. I have the honor to be, &c.

G. DUVAL.

JOSIAH QUINCY, Esq.

B.

TREASURY DEPARTMENT,
Comptroller's Office, March 9, 1810.

SIR: Since my letter of the 27th ultimo to you, Mr. Gore has remitted the balance due to the United States. His account is closed on the books of the Treasury.

I have the honor to be, &c.

G. DUVAL.

JOSIAH QUINCY, Esq. *Chairman, &c.*

C.

TREASURY DEPARTMENT,
March 14, 1810.

SIR: I communicated your letter, of 3d ultimo, to the Comptroller of the Treasury, with a request that he would state those amendments to existing laws, which in his opinion, would insure a more regular and punctual adjustment of the accounts of public agents and other receivers of public moneys. I now have the honor to transmit his answer, to which I have nothing to add beyond what I had verbally suggested, viz: An express provision, directing all public agents, or other receivers of public moneys, to render quarterly accounts, if residing within the United States, and at least annually, if abroad. In case of failure, the Comptroller should be authorized, for the reasons he states, to institute suit, without being obliged to give the notice now required by law.

I have the honor to be, &c.

ALBERT GALLATIN.

Hon. JOSIAH QUINCY *Chairman, &c.*

D.

TREASURY DEPARTMENT,
Comptroller's Office, March 7, 1810.

SIR: I have had under consideration that part of your letter of the 6th ultimo, requesting my opinion with respect to any improvement which may be made in the present system regulating the settlement of accounts and collection of the balances due to the United States.

The system appears to me to be susceptible of amendment. The acts which at present exist, and prescribe the rules to be observed, in recovering debts due to the United States, are,

1st. An act for the more effectual recovery of debts due from individuals to the United States, passed the 3d day of March, 1795; and

2d. An act to provide more effectually for the settlement of accounts between the United States and receivers of public money, passed on the 3d of March, 1797.

The first of those acts, in prescribing the preliminaries to a suit, in order to charge the debtor

Bank of the United States.

with the costs, is too circuitous and dilatory in its provisions. Letters by mail are subject to casualties, and the delay or mistake of a day frustrates the whole proceeding. I think it would be sufficient, after a debtor had refused to render his accounts at the period required by law, to fix a stated period, say three months, beyond which he should not be indulged, and if his accounts should not be rendered in that time, he should be liable to pay costs, in case of suit, which it should be the duty of the Comptroller to order, after the expiration of three months.

It should also be the duty of the accountants of the War and Navy Departments, in all cases where persons entrusted with the expenditure of public money should die, resign, or otherwise cease to be employed, to make, forthwith, a separate report, in each case, to the accounting officers of the Treasury, in order that a suit might be directed for the recovery of the balance, after adjustment. If this be prescribed by law as a duty, it would produce a more ready compliance than instructions to the same effect from this Department.

The great object to be obtained is to prescribe regulations which will coerce public debtors to render their accounts regularly, at stated periods. After they are rendered, there is seldom any difficulty in adjusting them.

The accounts of all foreign Ministers, and other agents, should be rendered to the Department of State, and from thence should be transmitted, without delay, to this Department, for settlement.

All which is respectfully submitted.

I have the honor to be, &c.

G. DUVALL.

ALBERT GALLATIN, Esq.
Secretary of the Treasury.

BANK OF THE UNITED STATES.

[Communicated to the Senate, April 4, 1810.]

The Secretary of the Treasury, in obedience to the resolution of the Senate, of the second instant, respectfully reports:

That the statement annexed to the report made to the Senate, on the second day of March, 1809, contained all the dividends made by the Bank of the United States, from its establishment to the date of the report, as stated to the Treasury by the bank.

That the annexed table, A, being a transcript of the abovementioned statement, with the addition of the dividends made on the first day of July, 1809, and on the first day of January last, embraces not only the ordinary semi-annual dividends of four per cent. but also of the extra dividends which are within the knowledge of this Department, and which, it is believed, have ever been made by the bank; making, in the whole, an average of 8 13-36 per cent. a year.

That there remained to the credit of the bank,

after payment of the dividend made on the first day of January last, a surplus of \$409,410, consisting of two items, viz; \$125,000 designated by the name of "General Bank Estate," intended as an offset against the decay and presumed loss in case of sale, of the real estate of the Bank, that estate having been paid for from the capital stock, and not from the profits of the bank; and \$284,410, designated by the name of "Contingent Fund," intended, in the first place, to cover losses arising from bad debts not yet actually lost; and the residue of which, if any, will be applicable to another extra dividend.

That the nominal profit resulting to the bank, from each of its offices of discount and deposit, could not be ascertained without an investigation of all the weekly returns made to this Department; and that there are no returns from which the actual loss sustained by each office can be known.

But that the statement B shows the permanent capital given to each office of discount and deposit; the balance due in account current by the offices, to the bank, (exclusive and in addition to the said permanent capital) on the 27th day of March last; the amount of the notes actually discounted and due to the bank by the last returns, specifying the amount discounted at Philadelphia, and at each office, respectively, and an estimate of the gross amount of the annual expenses and losses of the bank, including its several offices; by which it appears that the annual expenses, being about \$125,000 a year, the ascertained losses must, in the whole, have amounted to about \$35,000 a year.

All which is respectfully submitted.

ALBERT GALLATIN.

TREASURY DEPARTMENT, April 3d, 1810.

A.—Dividends on United States Bank Stock.

No.	Date.	Rate pr. cent.	No.	Date.	Rate pr. cent.
1	July, 1792	4	19	July, 1801	4
2	January, 1793	4	20	January, 1802	4†
3	July, "	3½*	21	July, "	4½†
4	January, 1794	3½*	22	January, 1803	4½†
5	July, "	4	23	July, "	4
6	January, 1795	4	24	January, 1804	4½†
7	July, "	4	25	July, "	4
8	January, 1796	4	26	January, 1805	4
9	July, "	4	27	July, "	4
10	January, 1797	4	28	January, 1806	4
11	July, "	4	29	July, "	4
12	January, 1798	5†	30	January, 1807	6†
13	July, "	4	31	July, "	4
14	January, 1799	4	32	January, 1808	4
15	July, "	4	33	July, "	4
16	January, 1800	4	34	January, 1809	4
17	July, "	4	35	July, "	4
18	January, 1801	6†	36	January, 1810	4

* Dividends falling short of the rate of 8 per cent. per annum.
† Including extra dividends.

Remission of Penalties.

B.—*Statement of the capital of the several branches, and of the Bank of the United States, and of the amount of discounts by the last received returns.*

Cities, &c.	Capital.	Amt. of notes discounted.
Boston - - -	\$700,000	\$998,859
New York - - -	1,800,000	4,175,874
Baltimore - - -	600,000	1,349,550
Washington - - -	200,000	485,285
Norfolk - - -	600,000	880,170
Charleston - - -	600,000	1,409,916
Savannah - - -	500,000	1,054,113
New Orleans - - -	300,000	611,517
Philadelphia—	\$5,300,000	
Balance due the bank, in account current, by the offices - \$750,000		
Cap'l reserved 3,950,000		
	4,700,000	4,572,586
	\$10,000,000	\$15,537,870
Funded debt - - -	-	1,411,627
		\$16,949,497

Estimate of the expenses and losses of the Bank.

Six per cent. on \$17,000,000, estimated, as per above, as the amount usually loaned on interest, is, per annum, \$1,020,000, to wit:

Dividends of 8 13-36 per cent. a year on ten millions of dollars, actually paid to the stockholders, is, per annum - - - - - \$836,111

Undivided surplus on the 1st January, 1810, \$409,410, divided by 18 years, would be equal to an annual dividend of - - - 22,745

Leaving for the estimated annual amount of expenses and losses - - - - - 161,144

Total - - - - - \$1,020,000

REMISSION OF PENALTIES.

[Communicated to the House, April 7, 1810.]

Mr. NEWTON, from the Committee of Commerce and Manufactures, to whom was referred the petitions of Hugh Smith, Philip and Nicholas Rogers, jun., John P. White, and William A. Caldwell, William Gaston, James Jones, and James Hathaway, made the following report:

Hugh Smith, a merchant of Alexandria, District of Columbia, states that, on the 13th of August, 1808, he became bound with McClanahan, in a bond to the United States, in the penalty of sixteen thousand six hundred and ninety-six dollars, conditioned that Andrew Stewart, master of the Brig Catharine, should not, in transporting a cargo of flour to Boston, violate the embargo laws. The petitioner is a glass and china merchant, no otherwise engaged in navigation than barely to import such articles as above stated; and in a few instances, to ship tobacco on commission. During the operation of the embar-

go, he made no shipments, either directly or indirectly.

His acquaintance with McClanahan was in consequence of an intimacy between their wives, previous to marriage; McClanahan, at the time the petitioner became his security, bore a good character.

The petitioner being sick, and confined to his house, did not learn, until a considerable time after signing the bond, that a few persons who attended to the manner of shipping the cargo, and the supply of provisions, and water taken on board the Brig Catharine, suspected the honesty and fair intentions of McClanahan.

Capt. Stewart, instead of going to Boston, went to Barbadoes, at which island he arrived, as the petitioner has every reason to believe, with the connivance of McClanahan, on the 15th November, 1808.

As soon as the petitioner was informed of this last fact, he wrote to the Secretary of the Treasury, stating the facts to him. The Secretary of the Treasury, in his own handwriting, makes the following note on the back of the petition: "I have no doubt of the innocence of the petitioner. The District Attorney of Virginia has been instructed to prosecute McClanahan, but he is not supposed to be able to pay the penalty. It is true, as stated by the petitioner, that he gave the first information to this Department, and wrote the several letters mentioned in the petition."

The petitioner, on the 31st of March, 1810, presented to the House a copy of the certificate, signed by James Sullivan, Governor of Massachusetts, addressed to the Collector of the port of Alexandria, in the District of Columbia, certifying that 1,400 barrels of flour were wanting for supplies, to which reference is made for further particulars. The petitioner does not, in his petition, state that he was induced to become McClanahan's security in consequence of the Governor's certificate. The petitioner sustains a good character.

Henly Woodward, a merchant residing at Tappahannock, in the State of Virginia, states that he has never been engaged in navigation further than to ship the produce of the country to merchants residing in the United States, for the purpose of making remittances. That, in consequence of a letter addressed to him by Samuel Lyon, of Baltimore, he became security for Joseph Shutz, in the bond executed by Thomas West and Joseph Shutz, to the United States, in the penalty of sixteen thousand dollars, on the 10th January, 1809, conditioned that the schooner Jane, of Baltimore, of which the said Thomas West was master, should not proceed to any foreign port or place, and that the cargo should be landed in some port of the United States.

The memorialist was influenced, in a great measure, to become security to the bond, in consequence of seeing a letter, addressed to the collector of Tappahannock, by William S. Stone, of Fredericksburg, recommending the said Shutz as a person worthy of confidence. Samuel Lyon has since failed.

Remission of Penalties.

The cargo was not landed in any port or place of the United States. The petitioner's character is well supported, and the committee entertain no doubts as to the truth of the facts set forth in the petition. The Secretary of the Treasury makes the following note on the back of the petition: "I have no doubt of the innocence of the petitioner." Several letters accompany the memorial, to which the committee beg leave to refer.

Philip Rogers, and Nicholas Rogers, jun., merchants, of the city of Baltimore, state, that they were joint owners of one half of the brig Sally, whereof a certain Henry Travers was captain, and also half owner; that the said brig sailed on the 2d of September, 1808, from the port of Baltimore, to the port of Charleston, South Carolina, and conditionally to the port of Savannah, Georgia, with a cargo of flour, and some other articles, partly shipped by Philip Rogers and the said Travers.

It is also stated by Nicholas Rogers, that he owned but a fourth part of the said brig, as a donation from his father, Philip Rogers; that he owned no part of the cargo; that he was absent when the said brig was loaded for Charleston; and that he left the sole management of this matter to his father, to whom the greatest part of the cargo belonged. That Captain Travers, previous to the sailing of the said brig, received from Philip Rogers, by a letter, dated 1st September, 1808, positive instructions to dispose of the flour, &c., at Charleston or Savannah, all which will appear by reference to the letter contained in the body of the petition. The petitioners further state, that the said Travers, on arrival at Charleston, sold a very small part of the cargo there; that he proceeded, thence, to Savannah, first giving, as his securities, Messrs. John P. White and William A. Caldwell, in conformity to law. The petitioners state that the said Travers, instead of going to Savannah, proceeded to Kingston, in Jamaica, in violation of law, and the positive instructions given to him by Philip Rogers. The last mentioned petitioner states, that he received from Captain Travers, for the sale of the brig's cargo at Kingston, not more than \$3,304, the said Travers retaining all the profits for himself. The petitioners state that they are sued for \$9,120, in the district court of Maryland, and Caldwell, and White, in that of South Carolina, and also, that they hold themselves bound, in case of recovery against Caldwell and White, to indemnify them. The petitioners further state, that Captain Travers is dead, leaving property to the amount only of two thousand dollars. They pray that the penalties incurred by them and Caldwell and White, through the misconduct of the said Travers, may be remitted.

The petition of John P. White and William A. Caldwell is the same case with the one now stated, as reference to the petition will show.

The Secretary of the Treasury states, in a note on the petition, the following remarks: "Judge states the facts to be true. Observe, however, that Travers, who violated the law, was employed by the petitioners as their captain."

William Gaston, a citizen of the State of Georgia, states, that, in the course of trade and mercantile concerns, he became acquainted with Robert Charles, of New York, owner of the brig Eliza and Mary; that the said brig, consigned to the petitioner, had made several voyages from Georgia to New York, loaded by the petitioner. That, in January, 1809, the said brig arrived in the port of Savannah, having the persons of Robert Charles, the owner, and Abraham Grimshaw, James Hutchinson, and Joseph Musgrove, passengers on board; Abraham Hall being the master. Grimshaw, Hutchinson, and Musgrove, were separately introduced to the petitioner, and recommended, as strangers, to him. These last mentioned persons agreed to load, with cotton, the said brig for New York; while loading, the petitioner received from Augusta, 54 bales of cotton, with directions to sell or ship the same to New York; the price being low at Savannah, he shipped the same on board the said brig. On the 21st of January, 1809, the said brig was ready for sea, having on board 301 bales of cotton—247 the property of Grimshaw, and Musgrove, and 54 that of Messrs. Phelps and Howard, of Augusta. The petitioner states that, at the instance of the owner and these men, to wit, Grimshaw, Hutchinson, and Musgrove, he went to the custom-house, and cleared the said brig, and gave bonds, together with Uel Merrill, a merchant of the said city, as his security, to which bonds the master of the said brig was also a party, for the safe arrival of the said brig in New York, dangers of the sea excepted, with a full, fair, and perfect confidence, that the real destination was for that port, and that the said brig was prosecuting a lawful voyage. On the 24th of January, 1809, the said brig proceeded to sea, having on board her owner and Musgrove, leaving Grimshaw and Hutchinson in Savannah. On the 25th, the day following the sailing of the brig, the two last mentioned persons called on the petitioner, and purchased the 54 bales of cotton then on board the said brig, belonging to Phelps and Howard, offering therefor, a price equal to that of the New York market, on a credit, which offer the petitioner accepted. On the same day, Grimshaw and Hutchinson took their passage for New York, and proceeded down the river to sea; previous to brig's sailing, Grimshaw, Hutchinson, and Musgrove, had engaged with the petitioner for the storage of 300 bales of cotton, to furnish a cargo for the said brig, on her return to Savannah. Immediately after the departure of Grimshaw and Hutchinson, the petitioner was informed of some things that excited suspicion, which, on examination, he found too well supported; he immediately applied to counsel for advice, and as the vessel on board of which Grimshaw and Hutchinson had embarked, was detained by contrary winds, he took out process, and had the same served, at the suit of the United States, for an infraction of the embargo laws. The petitioner acknowledges that the said brig went to Liverpool, which fact, as soon as it was ascertained, he made the collector acquainted with—was always ready to give any

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evidence in his power to bring the guilty to punishment. The petitioner sustains a fair and good character. The Secretary of the Treasury makes the following note on the petition: "The Judge does not positively state the facts to be true; and although he inclines, from Gaston's character, to believe him innocent, he alleges some reasons why the petitioner ought not to become security."

The petition of James Jones, of Hertford county, in the State of North Carolina, and of James Hathaway, the elder, of Edenton, in the same State, states that, sometime in the month of November, 18—, a schooner, called the Federal Jack, arrived at Edenton, from Boston; she was commanded by Joseph Lewis, who appeared to be an owner or part owner; that her company was made up of a certain Bordin Turner and — Young, and two negroes. Captain Lewis brought a certificate signed by the deputy naval officer of Boston, endorsed upon one of the ships' papers, in the following words: "It is the intention of the owners of this vessel to bring back a cargo of pitch, tar, and turpentine, rice and corn, for the consumption and use of this district." The petitioners state that, after purchasing a cargo, Capt. Lewis being in apparent distress, as he could not sail, on account of having no person to become his security, that the petitioners, after much persuasion and difficulty, became security for re-landing the cargo in some port or place in the United States, on the following conditions: that the persons belonging to the said schooner should leave her, and put on board another captain and company; this arrangement was acceded to, and the vessel sailed, in the month of January, 18—, for Boston, under the command of Daniel S. Brooks, with Preston Hathaway, and the said two negroes, for her company; Lewis Turner, and Young, departed from Edenton about the same time, intending, as they pretended, to travel to Boston by land. The petitioners became bound, in a bond to the United States, in the sum of \$3,384, as securities for the re-landing the cargo in the United States.

Young, Turner, and Lewis, instead of proceeding on to Boston by land, went to Washington, North Carolina, and thence to Ocracoeck, and on the arrival of the Federal Jack at the inlet, went on board of her. The petitioners state that Captain Brooks being apprehensive of those persons, he informed the captain of the revenue cutter at that place, that he believed it was the intention of Young, Turner, and Lewis, to go off with the vessel and cargo, in violation of the embargo laws, and had them removed from the schooner; it is also stated, that while the vessel was passing the bar, and under the direction of the pilot, and while Captain Brooks was engaged in the cabin, writing, Turner and Young got again on board the Federal Jack, and took the schooner from him. Captain Brooks was thereupon compelled to leave the vessel, in the pilot boat, and the said Turner and Young, retaining Preston Hathaway and the two negroes, proceeded on their voyage. The petitioners state that they have heard nothing of the said schooner; that they are sued for

the penalty of the bond, and pray to have the same remitted. The Secretary of the Treasury says, in a note on the petition, "the collector states the facts to be true."

The committee are of opinion that the reasoning in support of remitting the penalty incurred by Anthony Buck is infinitely more applicable to the petitioner, Hugh Smith, although, in support of his case, he did not rely on the Governor's certificate that flour was wanting for the consumption of Boston, as an inducement to his becoming the security of McClanahan. The committee, induced by the same reasons which they urged in support of the case of Anthony Buck, to which they beg leave to refer, (a) ask permission respectfully to submit the following resolution:

Resolved, That the prayer of the petitioner, Hugh Smith, is reasonable, and ought to be granted.

The Committee have give to the case of Henly Woodward, Philip Rogers, and Nicholas Rogers, jun., John P. White and William A. Caldwell, William Gaston, and of James Jones and James Hathaway, due attention and consideration.

The committee cannot perceive, in the evidence offered in support of the above cases, anything peculiarly hard, or that the petitioners have, by any act of the Government, been induced to do a thing, which the exercise of their own judgments, without its interference, would have resisted. If the committee had indulged a disposition of bringing into disrepute penal laws; if they were conscious that no time nor occasion could justify a resort to them for salutary purposes, or their enforcement, when enacted, they would not fail to seize the present opportunity of making a stand against this branch of jurisprudence; but, as they are convinced that this Government cannot be supported without the aid of penal statutes, they are clearly of opinion that such laws, when passed, should be enforced. They therefore respectfully submit the following resolution:

Resolved, That the petitioners have leave to withdraw their petitions.

[a.] NOTE.—The following is the report, in the case of ANTHONY BUCK, referred to in the foregoing:—]

The Committee of Commerce and Manufactures, to whom was referred the petition of Anthony Buck, of Fredericksburg, in Virginia, respectfully submit the following report:

Anthony Buck and a certain James A. Stuart, in 1808, became, jointly and severally, bound in a bond to the United States, the condition of which was, that James A. Stuart, master of the Sally Barker Windsor, of Hingham, in Massachusetts, should proceed from Fredericksburg to Hingham, with a cargo of flour, &c; and, also, that the said Stuart should, in no instance, violate the provisions of the embargo laws. The following statement of facts is made out from documents in the possession of the committee.

To prevent evasions and violations of the embargo laws, the President was invested with pow-

Remission of Penalties.

ers to limit the shipment of provisions to certain places, in larger quantities than was necessary for the supply thereof. The letter of the President to certain Governors, of 6th May, 1808, is as follows: "The evasions of the preceding embargo laws went so far towards defeating their objects, and chiefly by vessels clearing out coastwise, that Congress, by their act of April 25th, authorized the absolute detention of all vessels bound coastwise, with cargoes exciting suspicions of an intention to evade those laws. There being few towns on our seacoast which cannot be supplied with flour from their interior country, shipments of flour become generally suspicious, and proper subjects of detention. — is one of the few places on our sea board, which needs supplies of flour by sea, for its own consumption. That it may, not suffer by the cautions we are obliged to use, I request of your Excellency, whenever you deem it necessary, that your present, or any future stock should be enlarged, to take the trouble of giving your certificate in favor of any merchant in whom you have confidence, directed to the collector of any port usually exporting flour, from which he may choose to bring it, for any quantity which you may deem necessary for consumption, beyond your interior supplies, enclosing to the Secretary of the Treasury, at the same time, a duplicate of the certificate, as a check on the falsification of your signature. In this way we may insure a supply of the real wants of your citizens, and, at the same time, prevent those wants from being made a cover for the crimes against their country, which unprincipled adventurers are in the habit of committing. I trust, too, that your Excellency will find an apology for the trouble I propose to you, in that desire which you must feel, in common with all your worthy citizens, that inconveniences encountered cheerfully by them for the interests of their country, shall not be turned merely to the unlawful profits of the most worthless part of society."

The selectmen of Hingham addressed the following note to the Collector of Fredericksburg, (Tappahannock:)

"HINGHAM, Mass., Sept. 30, 1808.

SIR: The bearer, Captain James Stuart, of the schooner Sally Barker Windsor, sails from this for your port, and is desirous of purchasing a cargo of flour, corn, &c., &c., for this and the adjacent markets.

These necessary articles are getting scarce and dear. If you will permit him to take in a cargo for this port, you will oblige your humble servants.

JOHN CUSHING, }
JED. LINCOLN, } *Selectmen.*
JOHN LEAVETT, }

COLLECTOR of Fredericksburg, Va."

"PLYMOUTH, ss. 3d October, 1808.

I certify that the signers of the within written request are the selectmen of the town of Hingham, within this county.

SAMUEL NORTON.

THE COMMONWEALTH OF MASSACHUSETTS:

By His Excellency Jas. Sullivan, Esq., our Governor.

TO ALL WHO IT MAY CONCERN.

Know ye, that Samuel Norton, Esq., is a justice of the peace within and for our county of Plymouth, duly constituted, and that, to his acts and attestations, as such, full faith and credit are, and ought to be, given, in and out of court.

In testimony whereof, we have caused our seal to be hereunto affixed, at Boston, this fourth day of October, A. D. 1808, and in the thirty-third year of the independence of the United States of America.

JAMES SULLIVAN.

By His Excellency the Governor:

WM. TUDOR, *Secretary.*

James Stuart was a man unknown to anybody at Fredericksburg, when he arrived there. As is customary in all our seaports, he applied to the petitioner, Anthony Buck, a commission merchant of that place, to purchase a cargo of flour, &c., &c., which the said Buck agreed to do, receiving therefor the usual commissions. On the vessel's being loaded, the said Stuart informed the said Buck that, unless the latter became his surety in the bond required by the embargo laws, the former could not return home. The said Buck, in consideration of having purchased the cargo, and from the testimonials above inserted, which the said Buck took as a public recommendation, from high authority, of the integrity of the said Stuart, became his surety in the before mentioned bond.

The said Stuart states, that, near Nantucket, on his return voyage, he lost his bowsprit, in a violent storm, and all his water except one cask; that, in such a crippled situation, he was compelled to deviate from his course, and to steer for some Southern port; and he finally succeeded in getting into Havana. For particulars, the protest is referred to.

On the 13th of November, 1809, the said Buck was informed that the said Stuart had arrived at Boston, from Havana, notice of which he immediately communicated to the Secretary of the Treasury, for the purpose of having him arrested for a violation of the embargo laws. The petitioner has never been engaged in the shipping business. His character, from the papers accompanying the petition, stands fair. He has always proved himself to be a good citizen. On the petition is endorsed, in the handwriting of the Secretary of the Treasury, the following note: "— facts stated by the district judge to be true, I have no doubt of the innocence of the petitioner. Instructions have been given to prosecute Stuart, in Massachusetts." The committee beg leave to refer to the report of the Secretary of the Treasury, on the petition of Anthony Buck, dated on the 9th of January, 1810.

The committee, on a full consideration of the facts, as above stated, are convinced that the petitioner had no intention, in becoming the surety of Captain Stuart, to afford the latter an opportunity of evading the embargo laws.

Outstanding Revenue Bonds.

They are persuaded that the certificates required by the President's letter of the 6th of May, 1806, to enable merchants and others to procure supplies for home consumption, influenced the petitioner, in a great measure, to place confidence in the honor and integrity of Captain Stuart. As the certificates alluded to are set forth in the statement of the facts made out for the information of the House, the committee beg leave to refer to them for particulars. To say that penalties incurred, should, in no case, be remitted, would be unjust. It would be in direct opposition to that enlightened system of jurisprudence pursued since the commencement of this Government. To say that they ought to be remitted, generally, would be to disarm the Republic of one of its most powerful engines, and to defeat the end it should always keep in view—the good of the whole.

To avoid either extreme, the committee have laid it down as a rule, never to recommend a relaxation in the execution of penal laws, except in very hard cases: as, when the suffering party has, by an act of any branch of Government, been induced to do a thing, which, if it had not been for such official act, he would not have done. The case of the petitioner comes within the scope of this rule, if the consideration which the committee have given to it be correct. On the ground that the petitioner was induced, by the certificates above referred to, to become the surety of Captain Stuart, they ask permission to submit the following resolution:

Resolved. That the prayer of the petitioner is reasonable, and ought to be granted.

FREDERICKSBURG, 22d October, 1808.

SIR: The Governor of Massachusetts having, for some time back, declined to grant certificates for the transportation of provisions coastwise, the selectmen of the several towns have taken that authority upon themselves; but the collector of our district informs me that, agreeably to his instructions, he cannot permit Captain Stuart to clear out with more than one-third of the value of the vessel in produce, without permission from you. I have taken the liberty to enclose the certificate for your consideration, and have hopes that you will see the necessity of granting leave to load, on board the schooner Sally Barker Windsor, one thousand barrels of flour, to be cleared out, under bonds, for the port of Boston.

I am, with great respect, &c.

ANTHONY G. BUCK.

ALBERT GALLATIN, Esq.

TREASURY DEPARTMENT, October 24, 1808.

SIR: Your letter of 22d instant has been laid before the President. He does not think it proper to direct the Collector of Tappahannock to

deviate, in this instance, from the general rules by which he has heretofore been governed.

I am, very respectfully, &c.

ALBERT GALLATIN.

Mr. A. G. BUCK, *Fredericksburg.*

TREASURY DEPARTMENT, Oct. 24, 1808.

SIR: I enclose a certificate of the selectmen of Hingham, directed to you, and copy of a letter written this day to Mr. Buck of Fredericksburg, who had transmitted that paper. I do not know on what grounds that paper was issued, and if it shall be found necessary to ascertain the extent of shipments of flour and corn requisite for the consumption of Massachusetts, other steps will be taken for that purpose.

I am, very respectfully, &c.

ALBERT GALLATIN.

L. MUSE, Esq. *Collector, Tappahannock.*

REVENUE BONDS OUTSTANDING.

[Communicated to the Senate, April 17, 1810.]

TREASURY DEPARTMENT, April 16, 1810.

SIR: I have the honor, in obedience to the resolution of the Senate, of the thirteenth instant, to transmit a statement of the outstanding revenue bonds, amounting, on the first day of January last, to \$9,600,000.

But in that are included all the bad debts which have accrued on revenue bonds, from the commencement of this Government to that day. These, together with the debentures issued prior to the first day of January last, and remaining unpaid on that day, are estimated at one million of dollars, at least, and must be deducted from that nominal amount. The expenses of collection may be estimated at about four hundred thousand dollars.

The balance remaining in the Treasury on the first day of January last amounted to three million eight hundred and seventeen thousand nine hundred and seventy-six dollars and fifty-four cents.

It may not be improper to add, that the estimates of the probable receipts of this year, as stated in annual report made at the commencement of the present session of Congress, will not, so far as is now known, differ materially from the actual receipts, unless exportations of the foreign produce should exceed what had been presumed. The total amount of debentures payable in the year 1810, had been there estimated at two millions of dollars; and those paid before the first of April, amounted already, to \$1,360,000.

I have the honor to be, &c.

ALBERT GALLATIN.

HON. PRESIDENT OF THE SENATE.

Receipts and Public Debt.

Statement of bonds for duties on merchandise imported, outstanding at the several Custom-houses on the 1st January, 1810, taken from the accounts current of the Collectors, as rendered to the Treasury.

PORTS.	Amount of bonds outstanding Jan- uary 1, 1810.	PORTS.	Amount of bonds outstanding Jan- uary 1, 1810.
Portsmouth - - -	\$66,960 72	Perth Amboy - - -	6,730 21
Passamaquoddy - - -	(a) 22,229 69	Great Egg Harbor - - -	(a) 1,077 36
Frenchman's Bay - - -	397 50	Philadelphia - - -	1,949,049 47
Penobscot - - -	11,887 03	Detroit - - -	1,319 69
Waldoborough - - -	7,273 98	Michilimackinack - - -	(a) 12,032 30
Wiscasset - - -	19,875 53	Wilmington, Del. - - -	29,408 41
Bath - - -	19,881 69	Baltimore - - -	622,249 52
Portland - - -	39,026 60	Vienna - - -	558 14
Saco - - -	8,375 39	Snow Hill - - -	2,858 76
Kennebunk - - -	15,892 50	Georgetown, Col. - - -	8,194 06
York - - -	15,930 31	Alexandria - - -	29,855 83
Newburyport - - -	43,515 89	Yeocomico - - -	941 00
Ipswich - - -	(a) 1,595 19	Tappahannock - - -	29,411 67
Gloucester - - -	23,715 38	East River - - -	4,368 86
Salem - - -	391,128 69	Richmond - - -	13,501 91
Marblehead - - -	24,982 39	Petersburg - - -	13,718 79
Boston - - -	(a) 1,245,634 84	Norfolk - - -	153,875 60
Plymouth, Mass. - - -	19,640 12	Folly Landing - - -	6,335 68
Barnstable - - -	10,217 60	Cherry Stone - - -	496 19
New Bedford - - -	5,440 29	Camden - - -	16,561 59
Dighton - - -	2,669 95	Edenton - - -	6,845 87
Nantucket - - -	8,876 04	Plymouth, N. C. - - -	2,932 44
Edgartown - - -	612 28	Washington - - -	52,617 93
Bristol - - -	19,256 81	Newbern - - -	15,702 75
Providence - - -	95,240 28	Beaufort, N. C. - - -	207 25
Newport - - -	31,306 37	Wilmington, N. C. - - -	33,466 22
New London - - -	23,420 39	Georgetown, S. C. - - -	12,206 81
Middletown - - -	35,254 61	Charleston - - -	556,215 57
New Haven - - -	30,302 88	Savannah - - -	(a) 250,000 00
Fairfield - - -	2,735 15	Brunswick - - -	773 68
Allburgh, Vt. - - -	12,706 23	St. Mary's, Ga. - - -	18,927 92
Champlain - - -	5,985 25	Fort Stoddert - - -	163 87
Hudson - - -	1,014 54	New Orleans - - -	121,749 97
Sagg Harbor - - -	277 52		
New York - - -	3,364,102 60	Total - - -	\$9,600,717 55

(a) These ports are on estimate.

RECEIPTS AND PUBLIC DEBT.

[Communicated to the House of Representatives, April 17, 1810.]

TREASURY DEPARTMENT, April 16, 1810.

SIR: I have the honor, in obedience to the resolution of the House, of the 11th instant, to transmit a statement of the annual receipts into the Treasury, from the 4th day of March, 1789, to the 31st day of December, 1809; and a statement of the amount of debt annually incurred and reimbursed during the same period.

I have the honor to be, &c.

ALBERT GALLATIN.

HON. SPEAKER of the House of Reps.

Receipts and Public Debt.

Statement of the annual receipts into the Treasury, from the 4th March, 1789, to 31st December, 1809.

Years.	Customs.	Internal Revenue.	Direct Tax.	Public Lands.	Miscellaneous.	Loans.	Total.
From the 4th March, 1789	\$4,399,472 99				\$10,478 10	\$361,391 34	\$4,771,342 43
to 31st December, 1791	3,443,070 85	\$208,942 81	-	-	17,946 65	8,102,498 45	8,772,458 76
1792	4,255,306 56	337,705 70	-	-	59,910 88	1,797,272 01	6,450,195 15
1793	4,801,065 28	274,089 62	-	-	356,749 97	4,007,950 78	9,439,835 65
1794	5,588,461 26	337,755 36	-	-	193,117 97	3,396,424 00	9,515,758 59
1795	6,567,987 94	475,289 60	-	\$4,836 13	1,372,215 98	320,000 00	8,740,329 65
1796	7,549,649 65	575,491 45	-	83,540 60	480,099 29	70,000 00	8,768,780 99
1797	7,106,061 93	644,357 95	-	11,963 11	216,787 81	200,000 00	8,179,170 80
1798	6,610,449 31	779,136 44	-	-	157,227 56	5,000,000 00	12,546,813 31
1799	9,080,932 73	809,396 55	\$734,223 97	443 75	223,752 10	1,565,229 24	12,413,978 34
1800	10,750,778 93	1,048,033 43	534,343 38	167,726 06	444,374 15	-	12,945,455 95
1801	12,438,235 74	621,898 89	206,565 44	188,628 02	1,540,465 86	-	14,995,793 95
1802	10,479,417 61	215,179 69	71,879 20	165,675 69	131,945 44	-	11,064,097 63
1803	11,098,565 33	50,941 29	50,198 44	487,526 79	139,075 53	-	11,826,307 38
1804	12,936,487 04	21,747 15	21,882 91	540,193 80	40,382 30	-	13,560,693 20
1805	14,667,698 17	20,101 45	55,763 86	765,245 73	51,121 86	-	15,550,931 07
1806	15,845,321 61	13,051 40	34,732 56	466,163 27	93,370 60	-	16,452,839 44
1807	16,363,550 58	8,210 73	19,159 21	647,939 06	21,802 35	-	17,060,661 93
1808	7,296,020 58	4,044 39	7,517 31	442,252 53	23,638 51	-	7,773,473 12
1809							
	\$171,278,734 09	\$6,445,373 90	\$1,736,266 28	\$3,972,134 34	\$5,574,662 91	\$21,820,765 82	\$210,827,937 34

Public Debt—American Manufactures.

Statement of the annual amount, and of the annual increase and decrease of the public debt, from 1st January, 1791, to 1st January, 1810.

Amount of Public Debt on the first day of each year.				Amount of Public Debt annually incurred and reimbursed.			
1st of Jan., in the years	Gross amount of debt.	Payments made by the Treasury on account of subsequent years.	Amount of debt unprovided for.	Payments in each year on account of principal.	Amount of debt contracted.	Annual increase of debt.	Annual decrease of debt.
1791	75,463,476 52	293,502 31	75,169,974 21	3,324,842 86	5,089,291 00	1,764,448 14	—
1792	77,227,924 66	854,157 50	76,373,767 16	2,056,208 86	5,180,918 24	3,124,709 38	—
1793	80,352,634 04	2,764,636 11	77,587,997 93	3,189,932 63	1,264,703 36	—	1,925,229 27
1794	78,427,404 77	2,431,234 21	75,996,170 56	2,420,520 74	4,740,703 36	2,320,182 62	—
1795	80,747,587 39	2,597,649 56	78,149,937 83	2,949,415 32	5,964,000 00	3,014,584 68	—
1796	83,762,172 07	2,119,899 11	81,642,272 96	2,097,692 74	400,000 00	—	1,697,692 74
1797	82,064,479 33	1,130,455 79	80,934,023 54	2,835,950 21	—	—	2,835,950 21
1798	79,228,529 12	734,363 37	78,494,165 75	1,027,324 42	207,465 07	—	819,859 35
1799	78,408,669 77	1,008,760 42	77,399,909 35	1,144,075 42	5,711,700 00	4,567,624 58	—
1800	82,976,294 35	1,342,968 61	81,633,325 74	1,419,943 55	1,481,700 00	61,756 45	—
1801	83,038,050 80	1,037,883 44	82,000,167 36	2,325,418 55	—	—	2,325,418 55
1802	80,712,632 25	1,958,063 55	78,754,568 70	3,657,945 95	—	—	3,657,945 95
1803	77,054,686 30	2,322,763 45	74,731,922 85	5,627,565 42	15,000,000 00	9,372,434 58	—
1804	86,427,120 88	1,073,477 66	85,353,643 22	4,114,970 38	—	—	4,114,970 38
1805	82,312,150 50	1,778,091 85	80,534,058 65	6,588,879 84	—	—	6,588,879 84
1806	75,723,270 66	1,180,813 04	74,542,957 62	6,504,872 02	—	—	6,504,872 02
1807	69,218,398 64	1,486,753 02	67,731,645 62	4,022,080 67	—	—	4,022,080 67
1808	65,196,317 97	453,991 71	64,742,326 26	8,173,125 88	—	—	8,173,125 88
1809	57,023,193 09	290,812 28	56,732,379 81	3,850,889 77	—	—	3,850,889 77
1810	53,172,302 32	15,769 68	53,156,532 64	—	—	—	—

RECAPITULATION.

Debt on 1st January, 1791 -	-	-	-	-	-	-	\$75,463,476 52
Debt contracted from 1st January, 1791, to 1st January, 1801	-	-	-	-	-	\$30,040,481 03	
Deduct debt reimbursed during the same period -	-	-	-	-	-	22,465,906 75	
Increase of debt in those ten years	-	-	-	-	-	-	7,574,574 28
Debt on 1st January, 1801 -	-	-	-	-	-	-	83,038,050 80
Debt reimbursed from 1st January, 1801, to 1st January, 1810	-	-	-	-	-	44,865,748 48	
Deduct debt contracted during the same period -	-	-	-	-	-	15,000,000 00	
Decrease of debt in those nine years	-	-	-	-	-	-	29,865,748 48
Debt on 1st January, 1810	-	-	-	-	-	-	53,172,302 32
But as this sum of \$53,172,302 32 includes the Louisiana stock	-	-	-	-	-	-	11,250,000 00
The old debt remaining due on the 1st January, 1810, is only	-	-	-	-	-	-	41,922,302 32
And the old debt redeemed during the last nine years amounts to	-	-	-	-	-	-	41,115,748 48
Debt on 1st January, 1801	-	-	-	-	-	-	83,038,050 80

AMERICAN MANUFACTURES.

[Communicated to the House of Representatives, April 19, 1810.]

TREASURY DEPARTMENT, April 17, 1810.

SIR: In obedience to the resolution of the House, I have the honor to transmit a report, in part, on the subject of American manufactures. Some important information has been obtained,

American Manufactures.

but it is, in general, partial and defective; and it would have been desirable that the report might have been delayed till the next session.

Permit me to observe, that the approaching census might afford an opportunity to obtain detailed and correct information on that subject, provided that the deputy marshals were directed by Congress to collect it, and to make returns in such form as would be prescribed.

I have the honor to be, &c.

ALBERT GALLATIN.

The Hon. the SPEAKER of the H. of R.

The Secretary of the Treasury, in obedience to the resolution of the House of Representatives, respectfully submits the following report, in part, on the subject of domestic manufactures:

The following manufactures are carried on to an extent which may be considered adequate to the consumption of the United States, the foreign articles annually imported being less in value than those of American manufacture belonging to the same general class, which are annually exported, viz:

Manufactures of wood, or of which wood is the principal material; leather, and manufactures of leather; soap, and tallow candles; spermaceti oil and candles; flaxseed oil; refined sugar; coarse earthen ware; snuff, chocolate, hair powder, and mustard.

The following branches are firmly established, supplying, in several instances, the greater, and, in all a considerable, part of the consumption of the United States, viz:

Iron, and manufactures of iron; manufactures of cotton, wool, and flax; hats; paper, printing types, printed books, and playing cards; spirituous and malt liquors; several manufactures of hemp; gunpowder; window glass; jewelry and clocks; several manufactures of lead; straw bonnets and hats; wax candles.

Progress has also been made in the following branches, viz:

Paints and colors; several chemical preparations and medicinal drugs; salt; manufactures of copper and brass; japanned and plated ware; calico printing; queens, and other earthen and glass wares, &c.

Many articles, respecting which no information has been received, are undoubtedly omitted; and the substance of the information obtained, on the most important branches, is comprehended under the following heads:

Wood, and Manufactures of Wood.—All the branches of this manufacture are carried to a high degree of perfection, supply the whole demand of the United States, and consist principally of cabinet ware, and other household furniture, coaches and carriages, either for pleasure or transportation, and ship building.

The ships and vessels, above twenty tons burden, built in the United States during the years 1801 to 1867, measured 774,922 tons, making, on an average, about 110,000 tons a year, and worth more than six millions of dollars. About two-

thirds were registered for the foreign trade, and the remainder licensed for the coasting trade and fisheries.

Of the other branches, no particular account can be given. But the annual exportations of furniture and carriages amount to \$170,000. The value of the whole, including ship building, cannot be less than twenty millions of dollars a year. Under this head may also be mentioned pot and pearl ash, of which, besides supplying the internal demand, 7,400 tons are annually exported.

Leather and Manufactures of Leather.—Tanneries are established in every part of the United States, some of them on a very large scale—the capital employed in one single establishment amounting to one hundred thousand dollars. A few hides are exported, and it is stated that one-third of those used in the great tanneries of the Atlantic States are imported from Spanish America. Some superior or particular kinds of English leather and morocco are still imported; but about 350,000 pounds* of American leather are annually exported. The bark is abundant and cheap, and it seems, by the annexed communication, marked A, that hides cost, in America, 5½ cents, and in England, seven cents a pound; that the bark used for tanning costs, in England, nearly as much as the hides, and in America not one-tenth part of that sum. It is, at the same time, acknowledged, that much American leather is brought to market of an inferior quality, and that better is generally made in the middle than in the Northern or Southern States. The tanneries of the State of Delaware employ, collectively, a capital of one hundred and twenty thousand dollars, and ninety workmen, and make, annually, one hundred thousand dollars worth of leather. Those of Baltimore amount to twenty-two, seventeen of which have, together, a capital of \$187,000, and tan, annually, 19,000 hides, and 25,000 calf skins.

Morocco is also made in several places, partly from imported goat skins, and principally from sheep skins. And it may be proper here to add, that deer skins, which form an article of exportation, are dressed and manufactured in the United States, to the amount required for the consumption of the country.

The principal manufactures of leather are those of shoes and boots, harness and saddles. Some inconsiderable quantities of the two last articles are both imported and exported. The annual importation of foreign boots and shoes, amounts to 3,250 pair boots and 59,000 pair of shoes, principally kid and morocco. The annual exportation of the same articles, of American manufacture, to 8,500 pair of boots, and 127,000 pair of shoes. The shoe manufactures of New Jersey are extensive. That of Lynn, in Massachusetts, makes 100,000 pair of women's shoes annually.

The value of all the articles annually manu-

*Unless otherwise stated, the importations and exportations are, in this report, taken on the average of the years 1806 and 1807.

American Manufactures.

factured in the United States, which are embraced under this head, (leather,) may be estimated at twenty millions of dollars.

Soap, and Tallow Candles.—A great portion of the soap and candles used in the United States is a family manufacture. But there are also several establishments, on an extensive scale, in all the large cities, and several other places. Those of the village of Roxbury, near Boston, employ, alone, a capital of one hundred thousand-dollars, and make, annually, 370,000 pounds candles, and 380,000 pounds brown soap, and 50,000 pounds Windsor and fancy soap, with a profit, it is said, of 15 per centum on the capital employed.

The annual importations of foreign manufacture are, candles, 158,000 pounds; soap, 470,000 pounds.

The annual exportations of domestic manufacture are, candles, 1,775,000 pounds; soap, 2,220,000 pounds.

The annual value manufactured in the United States, and including the quantity made in private families, for their own use, cannot be estimated at less than eight millions of dollars.

Spermaceiti Oil and Candles.—The establishments for this manufacture are at Nantucket and New Bedford, in Massachusetts, and at Hudson, in New York. Besides supplying the whole of the domestic consumption, they furnished, annually, for exportation to foreign countries, 230,000 pounds of candles, and 44,000 gallons of oil. The whole quantity, annually manufactured, amounted to about \$300,000. But the exclusion from foreign markets has lately affected the manufacture.

Refined Sugar.—The annual importations of foreign refined sugar amount, for the years 1803 to 1807, to 47,000 pounds.

The annual exportation of American refined sugar, amount, for the same years, to 150,000 pounds.

The then existing duty was, in the year 1801, collected on 3,827,000 pounds; and, as the manufacture has kept pace with the increase of population, the quantity now annually made may be estimated at five millions of pounds, worth one million of dollars. The capital employed is stated at three millions and a half of dollars: and as the establishments have increased in number, some of them have declined in business. It is believed that, if a drawback equivalent to the duty paid on the importation of the brown sugar used in the refined sugar exported, was again allowed, the foreign demand, particularly of Russia, would give a greater extension to this branch. A special report has been made on that subject to the Committee of Commerce and Manufactures.

COTTON, WOOL, AND FLAX.

I. Spinning Mills and Manufacturing Establishments.—The first cotton mill was erected in the State of Rhode Island, in the year 1791; another, in the same State, in the year 1795; and two more, in the States of Massachusetts, in the years 1803 and 1804. During the three succeeding years, ten more were erected or commenced, in Rhode Island, and one in Connecticut; ma-

king, altogether, fifteen mills erected before the year 1808, working, at that time, about eight thousand spindles, and producing about three hundred thousand pounds of yarn a year.

Returns have been received of eighty-seven mills, which were erected at the end of the year 1809; sixty-two of which (forty-eight water, and fourteen horse, mills) were in operation, and worked, at that time, thirty-one thousand spindles. The other twenty-five will all be in operation in the course of this year, and, together with the former ones, (almost all of which are increasing their machinery) will, by the estimate received, work more than eighty thousand spindles at the commencement of the year 1811.

The capital required to carry on the manufacture, on the best terms, is estimated at the rate of one hundred dollars for each spindle; including both the fixed capital applied to the purchase of the mill-seats, and to the construction of the mills and machinery, and that employed in wages, repairs, raw materials, goods on hand, and contingencies. But it is believed that no more than at the rate of sixty dollars for each spindle is generally actually employed. Forty-five pounds of cotton, worth about twenty cents a pound, are, on an average, annually used for each spindle; and these produce about thirty-six pounds of yarn, of different qualities, worth, on an average, one dollar and twelve and a half cents a pound. Eight hundred spindles employ forty persons, viz: five men and thirty-five women and children. On those data, the general results for the year 1811, are estimated as follows:

Number of mills, 87; number of spindles, 80,000; amount of capital employed, \$4,800,000. Cotton used, 3,600,000; value, \$720,000. Yarn spun, 2,880,000 pounds; value, \$3,240,000. Persons employed—men, 500; women and children, 3,500. Total employed, 4,000.

The increase of carding and spinning of cotton by machinery, in establishments for that purpose, and exclusively of that done in private families, has, heretofore, been fourfold, during the two last years, and will have been tenfold in three years. The table B shows the situation and extent of those several mills, and that, although the greater number is in the vicinity of Providence, in Rhode Island, they are scattered and extending throughout all the States. Those situated within thirty miles of Providence, are exhibited in table C, and the statement marked D gives the details of one of the establishments, as furnished by one of the proprietors.

The seventeen mills in the State of Rhode Island, included in the table C, which were in operation, and worked 14,290 spindles in the year 1809, are also stated to have used, during that year, 640,000 pounds of cotton, which produced 510,000 pounds of yarn; of which, 124,000 pounds were sold for thread and knitting; 200,000 pounds were used in manufactures attached to, or in the vicinity of, these mills; and the residue was either sold for wick, and for the use of family manufactures, or exported to other parts. Eleven hundred looms are said to be employed in weav-

American Manufactures.

ing the yarn spun by these mills into goods, principally of the following descriptions, viz :

Bed ticking, sold at 55 to 90 cents per yard.

Stripes and checks, sold at 30 to 40 cents per yard.

Ginghams, sold at 40 to 50 cents per yard.

Cloth, for shirts and sheeting, sold at 35 to 75 cents per yard.

Counterpanes, at eight dollars each.

Those several goods are already equal, in appearance, to the English imported articles of the same description, and superior in durability; and the finishing is still improving. The proportion of fine yarns is also increasing.

The same articles are manufactured in several other places, and particularly at Philadelphia, where are also made, from the same material, webbing and coach laces, (which articles have also excluded, or will soon exclude, similar foreign importations,) table and other diaper cloth, jeans, vest patterns, cotton kerseymeres and blankets. The manufacture of fustians, cords, and velvet, has also been commenced in the interior and western parts of Pennsylvania, and in Kentucky.

Some of the mills, above mentioned, are also employed in carding and spinning wool, though not to a considerable amount. But almost the whole of that material is spun and wove in private families; and there are yet but few establishments for the manufacture of woollen cloths. Some information has, however, been received, respecting fourteen of these, as stated in table E, manufacturing, each, on an average, ten thousand yards of cloth a year, worth from one to ten dollars a yard. It is believed that there are others, from which no information has been obtained; and it is known that several establishments, on a smaller scale, exist in Philadelphia, Baltimore, and some other places. All those cloths, as well as those manufactured in private families, are generally superior in quality, though somewhat inferior in appearance, to imported cloths of the same price. The principal obstacle to the extension of the manufacture is the want of wool, which is still deficient, both in quality and quantity. But these defects are daily and rapidly lessened, by the introduction of sheep of the merino and other superior breeds; by the great demand for the article; and by the attention now everywhere paid by farmers to the increase and improvement of their flocks.

Manufacturing establishments, for spinning and weaving flax, are yet but few. In the State of New York, there is one, which employs a capital of \$18,000, and twenty-six persons, and in which about ninety thousand pounds of flax are annually spun and wove, into canvass and other coarse linen. Information has been received respecting two, in the vicinity of Philadelphia, one of which produces, annually, 72,000 yards of canvass, made of flax and cotton; in the other, the flax is both hackled and spun by machinery; thirty looms are employed; and it is said that 500,000 yards of cotton bagging, sail cloth, and coarse linen, may be made annually.

Hosiery may also be considered as almost ex-

clusively a household manufacture. That of Germantown has declined, and it does not appear to have been attempted on a large scale in other places. There are, however, some exceptions; and it is stated that the island of Martha's Vineyard exports, annually, nine thousand pair of stockings.

II. Household Manufactures.—But by far the greater part of the goods made of those materials, (cotton, flax, and wool,) are manufactured in private families, mostly for their own use, and partly for sale. They consist principally of coarse cloth, flannel, cotton stuffs, and stripes of every description, linen, and mixtures of wool with flax or cotton. The information received from every State, and from more than sixty different places, concurs in establishing the fact of an extraordinary increase, during the last two years, and in rendering it probable that about two-thirds of the clothing, including hosiery, and of the house and table linen, worn and used by the inhabitants of the United States, who do not reside in cities, is the product of family manufactures.

In the Eastern and Middle States, carding machines, worked by water, are everywhere established, and they are rapidly extending southwardly and westwardly. Jennies, other family spinning machines, and flying shuttles, are also introduced in many places; and as many fulling mills are erected as are required for finishing all the cloth which is woven in private families. (See note F and statement G.)

Difficult as it is to form an estimate, it is inferred, from a comparison of all the facts which have been communicated, with the population of the United States, (estimated at six millions of white and twelve hundred thousand black persons) that the value of all the goods made of cotton, wool, and flax, which are annually manufactured in the United States, exceeds forty millions of dollars.

The manufacture of cards and wire is intimately connected with this part of the subject. Whittemore's machine for making cards has completely excluded foreign importations of that article. It will appear, by the communication H, that the capital employed in that branch may be estimated at \$200,000; and that the annual consumption amounted, till lately, to twenty thousand dozen pair of hand cards, and twenty thousand square feet of cards for machines, worth together about \$200,000. The demand of last year was double that of 1808, and is still rapidly increasing. But the wire itself is altogether imported, and a very serious inconvenience might arise from any regulation which would check or prevent the exportation from foreign countries. It appears, however, by the communication I, that the manufacture may, and would be, immediately established, so as to supply the demand both for cards and other objects, provided the same duty was imposed on wire, now imported duty free, which is laid on other articles made of the same material. The whole amount of wire, annually used for cards, does not at present exceed twenty-five tons, worth about \$40,000.

American Manufactures.

Hats.—The annual importations of foreign hats amount to \$350,000; the annual exportation of American hats to \$100,000.

The domestic manufacture is, therefore, nearly equal to the home consumption. The number made in the State of Massachusetts is estimated, by the hat company of Boston, at four times the number required for the consumption of the State; and from other information it would appear, that, in that State alone, the capital applied to that branch is near three millions of dollars, the number of persons employed about four thousand, and the number of hats annually made 1,550,000; of which, 1,150,000 are fine hats, worth, on an average, four dollars each, and 400,000 felt hats, worth one dollar each. That the manufacture is still profitable, appears from a late establishment on Charles river, calculated to make, annually, 35,000 hats, at five dollars a piece, and to employ 150 workmen.

The quantity made in Rhode Island, is stated at 50,000 thousand, worth five dollars each, exclusively of felt hats. Connecticut and New York made more than is necessary for their consumption; the largest establishment being that of Danbury, where 200 persons are employed, and to the amount of \$130,000 annually manufactured. In Vermont, the manufacture supplies the consumption. It is stated by the hatters of Philadelphia, that 92,000 hats, worth five dollars each, are annually made there, in addition to which, 50,000 country hats, worth three dollars each, are annually sold in the city. In various quarters, the scarcity of wool is complained of, as preventing the making of a sufficient quantity of coarse hats. From all the information which has been received, it is believed that the value of all the hats, annually made in the United States, is near ten millions of dollars. (See note K.)

Paper and Printing.—Some foreign paper is still imported, but the greater part of the consumption is of American manufacture; and it is believed that, if sufficient attention was everywhere paid to the preservation of rags, a quantity equal to the demand would be made in the United States. Paper mills are erected in every part of the Union. There are twenty-one in the States of New Hampshire, Vermont, Rhode Island, and Delaware, alone, and ten in only five counties of the States of New York and Maryland. Eleven of those mills employ a capital of two hundred thousand dollars, and 180 workmen, and make, annually, \$150,000 worth of paper.

Printing is carried on to an extent commensurate with the demand. Exclusively of the numerous newspapers, which alone form a considerable item in value, all the books for which there is an adequate number of purchasers, are printed in the United States. But sufficient data have not been obtained to form an estimate of the annual aggregate value of the paper made, and of the printing and book binding executed in the United States, other than what may be inferred from the population. The manufactures of hanging paper, and of playing cards, are also extensive; and that of printing types, of which there

are two establishments, the principal at Philadelphia, and another at Baltimore, was fully adequate to the demand, but has lately been affected by the want of regulus of antimony.

Manufactures of Hemp.—The annual importations of foreign hemp, amounted to 6,200 tons. But the interruption of commerce has greatly promoted the cultivation of that article in Massachusetts, New York, Kentucky, and several other places; and it is believed that a sufficient quantity will, in a short time, be produced in the United States.

The manufacture of ropes, cables, and cordage, of every description, may be considered as equal to the demand, the exportations of American manufacture, for 1806 and 1807, having exceeded the average of 6,500 quintals, and the importations from foreign ports, having fallen short of 4,200 ditto.

Exclusive of the rope-walks in all the seaports, there are fifteen in Kentucky alone, which consume about one thousand tons of hemp a year; and six new works were in a state of preparation for the present year.

The manufactures of sail duck, formerly established in Rhode Island, in Connecticut, and at Salem, have been abandoned or suspended, partly on account of the high price of hemp, and partly for want of capital. Some is still made; and the species of canvass, commonly called cotton bagging, is now manufactured, in various places, on an extensive scale. An establishment at Philadelphia, employs eight looms, and can make, annually, 17,000 yards of duck, or 45,000 yards of cotton bagging. There are thirteen manufactures in Kentucky, and two in West Tennessee. The five at or near Lexington, make annually 250,000 yards of duck and cotton bagging.

Spirituous and Malt Liquors.—The duty on licensed stills, amounted, in 1801, to \$372,000, and, on account of omissions, might be estimated at \$450,000. As the duty actually paid on the spirits distilled in those stills, did not, on an average, exceed five cents per gallon, the quantity of spirits distilled during that year, from grain and fruit, (exclusively of the large gin distilleries in cities,) must have amounted to about 9,000,000 of gallons and may, at present, the manufacturing having increased, at least in the same ratio as the population, be estimated at twelve millions of gallons. To this must be added about three millions of gallons of gin and rum, distilled in cities; making an aggregate of fifteen millions of gallons.

The importations of foreign spirits, are, nevertheless, very considerable, having amounted, during the years 1806 and 1807, to 9,750,000 gallons a year, and yielding a net annual revenue to the United States, of \$2,865,000.

The quantity of malt liquors made in the United States is nearly equal to their consumption. The annual foreign importations amount only to 185,000 gallons, and the annual exportations of American beer and cider to 187,000 gallons. But the amount actually made, cannot be correctly stated. It has been said, that the breweries of Philadelphia consumed, annually, 150,000 bushels of malt; and, exclusively of the numerous estab-

American Manufactures.

ishments on a smaller scale, dispersed throughout the country, extensive breweries are known to exist in New York and Baltimore.

From these data, the aggregate value of spirituous and malt liquors, annually made in the United States, cannot be estimated at less than ten millions of dollars.

Iron, and Manufactures of Iron.—The information received respecting that important branch is very imperfect. It is, however, well known, that iron ore abounds, and that numerous furnaces and forges are erected, throughout the United States. They supply a sufficient quantity of hollow ware, and of castings, of every description; but about 4,500 tons of bar iron are annually imported from Russia, and probably, an equal quantity from Sweden and England together. A vague estimate states the amount of bar iron annually used in the United States, at fifty thousand tons, which would leave about forty thousand for that of American manufacture. Although a great proportion of the ore found in Vermont, Pennsylvania, Maryland, and Virginia, be of a superior quality, and some of the iron manufactured there equal to any imported, it is to be regretted, that, from the demand, and from want of proper attention in the manufacture, much inferior American iron is brought to market. On that account, the want of the ordinary supply of Russian iron has been felt in some of the slitting and rolling mills. But, whilst a reduction of the duty on Russian iron is asked from several quarters, it is generally stated that a high or prohibitory duty on English bar, slit, rolled, and sheet iron, would be beneficial; that which is usually imported on account of its cheapness, being made with pit coal, and of a very inferior quality.

The annual importations of sheet, slit, and hoop iron, amount to five hundred and sixty-five tons; and the quantity rolled and slit in the United States, is estimated at seven thousand tons. In the State of Massachusetts alone, are found thirteen rolling and slitting mills, in which about 3,500 tons of bar iron, principally from Russia, are annually rolled or slit. A portion is used for sheet iron and nail rods for wrought nails; but two-thirds of the whole quantity of bar iron flattened by machinery in the United States, is used in the manufacture of cut nails, which has now extended throughout the whole country, and, being altogether an American invention, substituting machinery to manual labor, deserves particular notice. The details on that subject will be found in the communications L and M; and it will be sufficient here to state, that the annual product of that branch alone, may be estimated at twelve hundred thousand dollars, and that, exclusively of the saving of fuel, the expense of manufacturing cut nails, is not one-third part of that of forging wrought nails. About two hundred and eighty tons are already annually exported, but the United States continue to import, annually, more than fifteen hundred tons of wrought nails and spikes. An increase of duty on these, and a drawback on the exportation of the cut nails, is generally asked for.

A considerable quantity of blistered, and some refined steel, are made in America; but the foreign importations exceed 11,000 cwt. a year.

The manufactures of iron consist principally of agricultural implements, and of all the usual work performed by common blacksmiths. To these may be added anchors, shovels, and spades, axes, scythes, and other edge tools, saws, bits, and stirrups, and a great variety of the coarser articles of ironmongery; but cutlery, and all the finer species of hardware, and of steel work, are almost altogether imported from Great Britain. Balls, shells, and cannon, of small caliber, are cast in several places; and three foundries for casting solid, those of the largest caliber, together with the proper machinery for boring and finishing them, are established in Cecil county, Maryland, near the City of Washington, and at Richmond, in Virginia; each of the two last may cast 300 pieces of artillery a year, and a great number of iron and brass cannon are made at that near the seat of Government. Those of Philadelphia and near the Hudson river, are not now employed. It may here be added, that there are several iron foundries for casting every species of work wanted for machinery, and that steam engines are made at that of Philadelphia.

At the two public armories of Springfield and Harper's Ferry, 19,000 muskets are annually made. About 20,000 more are made at several factories, of which the most perfect is said to be that near New Haven, and which, with the exception of that erected at Richmond by the State of Virginia, are all private establishments. These may, if wanted, be immediately enlarged; and do not include a number of gunsmiths employed in making rifles, and several other species of arms. Swords and pistols are also manufactured in several places.

Although it is not practicable to make a correct statement of the value of all the iron and manufactures of iron, annually made in the United States, it is believed to be from twelve to fifteen millions of dollars. The annual importations from all foreign countries, including bar iron, and every description of manufactures of iron or steel, are estimated at nearly four millions of dollars.

Copper and Brass.—Rich copper mines are found in New Jersey, in Virginia, and near Lake Superior; but they are not now wrought. The principal manufactures of that material, are those of stills and other vessels; but the copper in sheets and bolts is almost universally imported, the only manufacture for that object, which is at Boston, not receiving sufficient encouragement, although a capital of \$25,000 has been invested in a rolling mill and other apparatus. The true reason is, that those articles are imported free of duty; and the owners seem to be principally employed in casting bells and other articles.

Zinc has lately been discovered in Pennsylvania; and there are a few manufactures of metal buttons, and various brass wares.

Manufactures of Lead.—Lead is found in Virginia and some other places, but the richest mines of that metal are found in Upper Louisiana, and

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also, it is said, in the adjacent country, on the east side of the Mississippi. They are not yet wrought to the extent of which they are susceptible, and, after supplying the Western country, do not furnish more than two hundred tons annually to the Atlantic States.

The annual importations from foreign countries of red and white lead, amount to 1,150 tons.

And those of lead itself, and of all other manufactures of lead, to 1,225 tons.

The principal American manufactures are those of shot, and colors of lead. Of the first, there are two establishments on a large scale at Philadelphia, and another in Louisiana, which are more than sufficient to supply the whole demand, stated at six hundred tons a year. Five hundred and sixty tons of red and white lead, litharge, and some other preparations of that metal, are made in Philadelphia alone. A repeal of the duty of one cent per pound on lead, and an equalization of that on the manufactures of lead, by charging them all with the two cents per pound laid on white and red lead, is asked by the manufacturers.

Various other paints and colors are also prepared in Philadelphia, and some other places.

Tin, japanned, plated Wares.—The manufacture of tin ware is very extensive, and Connecticut supplies the greater part of the United States with that article; but the sheets are always imported. The manufacture of plated ware, principally for coach-makers and saddlers, employs at Philadelphia 73 workmen; and the amount annually made there, exceeds one hundred thousand dollars. There are other similar establishments at New York, Baltimore, Boston, and Charleston.

Gunpowder.—Saltpetre is found in Virginia, Kentucky, and some other of the Western States and Territories; but it is principally imported from the East Indies. The manufacture of gunpowder is nearly, and may, at any moment, be made altogether adequate to the consumption; the importation of foreign powder amounting only to 200,000 pounds, and the exportation of American powder to 100,000 pounds. The manufacture of Brandywine, which employs a capital of \$76,000 and thirty-six workmen, and is considered as the most perfect, makes alone 226,000 lbs. annually, and might make 600,000 lbs. if there was a demand for it. Two others, near Baltimore, have a capital of \$100,000, and make 450,000 lbs. of a quality said lately to be equal to any imported. There are several other powder mills in Pennsylvania and other places; but the total amount of gunpowder made in the United States, is not ascertained.

Earthen and Glass Ware.—A sufficient quantity of the coarser species of pottery is made everywhere; and information has been received of four manufactures of a finer kind lately established. One at Philadelphia, with a capital of \$11,000, manufactures a species similar to that made in Staffordshire, in England, and the others, in Chester county, in Pennsylvania, in New Jersey, and on the Ohio, make various kinds of Queensware.

Information has been obtained of ten glass manufactures, which employ about one hundred and forty glass blowers, and make annually twenty-seven thousand boxes of window glass, containing each, one hundred square feet of glass. That of Boston makes Crown glass equal to any imported: all the other make green or German glass, worth fifteen per cent. less; that of Pittsburgh, uses coal, and all the others, wood for fuel.

The annual importations of foreign window glass, amount to 27,000 boxes; the extension of the domestic manufacture, which supplies precisely one-half of the consumption, being prevented by the want of workmen.

Some of those manufactures, make also green bottles and other wares; and two works, employing together six glass blowers, have been lately erected at Pittsburgh, and make decanters, tumblers, and every other description of flint glass of a superior quality.

Chemical Preparations.—Copperas is extracted, in large quantities, from pyrites in Vermont, New Jersey, and Tennessee. About 200,000 lbs. of oil of vitriol and other acids, are annually manufactured in a single establishment at Philadelphia. Various other preparations and drugs, are also made there, and in some other places; and the annual amount exported, exceeds \$30,000 in value.

Salt.—The salt springs of Onondaga and Cayuga, in the State of New York, furnish about 300,000 bushels a year; and the quantity may be increased in proportion to the demand. Those of the Western States and Territories, supply about an equal quantity; that known by the name of the Wabash Saline, which belongs to the United States, making now 130,000 bushels. Valuable discoveries have also lately been made on the banks of the Kenhawa. But the annual importation of foreign salt amounts to more than three millions of bushels, and cannot be superseded by American salt, unless it be made along the seacoast. The works in the State of Massachusetts are declining, and cannot proceed, unless the duty on foreign salt should again be laid. It is necessary to shelter the works from the heavy summer rains by light roofs moving on rollers. This considerably increases the expense; and it appears that the erection of ten thousand superficial square feet, costs one thousand dollars, and that they produce only two hundred bushels a year. A more favorable result is anticipated on the coast of North Carolina, on account of the difference in the climate; and works covering 275,000 square feet have been lately erected there.

Miscellaneous.—Respecting the other manufactures enumerated in the other part of this report, no important or correct information has been received; except as relates to the two following:

Straw bonnets and hats are made with great success; and a small district in Rhode Island and Massachusetts, annually exports to other parts of the Union, to the amount of \$250,000. See communication N.

Several attempts have been made to print cal-

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icoes; but it does not seem that the manufacturers can, without additional duties, stand the competition of similar foreign articles. The difficulties under which they labor are stated in the petition of the calico printers of Philadelphia to Congress. A considerable capital has been vested in an establishment near Baltimore, which can print 12,000 yards a week, and might be considerably extended, if the profits and the demand afforded sufficient encouragement.

From this imperfect sketch of American manufactures, it may, with certainty, be inferred, that their annual product exceeds one hundred and twenty millions of dollars. And it is not improbable that the raw materials used, and the provisions and other articles consumed, by the manufacturers, create a home market for agricultural products not very inferior to that which arises from foreign demand. A result more favorable than might have been expected from a view of the natural causes which impede the introduction, and retard the progress of manufactures in the United States.

The most prominent of those causes are the abundance of land compared with the population, the high price of labor, and the want of a sufficient capital. The superior attractions of agricultural pursuits, the great extension of American commerce during the late European wars, and the continuance of habits after the causes which produced them have ceased to exist, may also be enumerated. Several of those obstacles have, however, been removed or lessened. The cheapness of provisions had always, to a certain extent, counterbalanced the high price of manual labor; and this is now, in many important branches, nearly superseded by the introduction of machinery; a great American capital has been acquired during the last twenty years; and the injurious violations of the neutral commerce of the United States, by forcing industry and capital into other channels, have broken inveterate habits, and given a general impulse, to which must be ascribed the great increase of manufactures during the two last years.

The revenue of the United States, being principally derived from duties on the importation of foreign merchandise, these have also operated as a premium in favor of American manufactures, while, on the other hand, the continuance of peace, and the frugality of Government, have rendered unnecessary any oppressive taxes, tending materially to enhance the price of labor, or impeding any species of industry.

No cause, indeed, has, perhaps, more promoted, in every respect, the general prosperity of the United States, than the absence of those systems of internal restrictions and monopoly which continue to disfigure the state of society in other countries. No law exists here, directly or indirectly, confining man to a particular occupation or place, or excluding any citizen from any branch, he may, at any time, think proper to pursue. Industry is, in every respect, perfectly free and unfettered; every species of trade, commerce, art, profession, and manufacture, being equally

opened to all, without requiring any previous regular apprenticeship, admission, or license. Hence the progress of America has not been confined to the improvement of her agriculture, and to the rapid formation of new settlements and States in the wilderness; but her citizens have extended their commerce through every part of the globe, and carry on with complete success, even those branches for which a monopoly had heretofore been considered essentially necessary.

The same principle has also accelerated the introduction and progress of manufactures, and must ultimately give in that branch, as in all others, a decided superiority to the citizens of the United States over the inhabitants of countries oppressed by taxes, restrictions, and monopolies. It is believed that, even at this time, the only powerful obstacle against which American manufactures have to struggle, arises from the vastly superior capital of the first manufacturing nation of Europe, which enables her merchants to give very long credits, to sell on small profits, and to make occasional sacrifices.

The information which has been obtained is not sufficient to submit, in conformity with the resolution of the House, the plan best calculated to protect and promote American manufactures. The most obvious means are bounties, increased duties on importation, and loans by Government.

Occasional premiums might be beneficial; but a general system of bounties is more applicable to articles exported than to those manufactured for home consumption.

The present system of duties may, in some respects, be equalized and improved, so as to protect some species of manufactures without affecting the revenue. But prohibitory duties are liable to the treble objection of destroying competition, of taxing the consumer, and of diverting capital and industry into channels generally less profitable to the nation than those which would have naturally been pursued by individual interest left to itself. A moderate increase will be less dangerous, and, if adopted, should be continued during a certain period; for the repeal of a duty once laid, materially injures those who have relied on its permanency, as has been exemplified in the salt manufacture.

Since, however, the comparative want of capital, is the principal obstacle to the introduction and advancement of manufactures in America, it seems that the most efficient, and most obvious remedy would consist in supplying that capital. For, although the extension of banks may give some assistance in that respect, their operation is limited to a few places, nor does it comport with the nature of those institutions to lend for periods as long as are requisite for the establishment of manufactures. The United States might create a circulating stock, bearing a low rate of interest, and lend it at par to manufacturers, on principles somewhat similar to that formerly adopted by the States of New York and Pennsylvania in their loan offices. It is believed that a plan might be devised by which five millions a year, but not exceeding, in the whole, twenty millions, might

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be thus lent, without any material risk of ultimate loss, and without taxing or injuring any other part of the community.

All which is respectfully submitted.

ALBERT GALLATIN.

TREASURY DEPARTMENT, April 17, 1810.

A.—Extract of a letter from Wm. Edwards, of Northampton, to the Postmaster at that place, dated November 29, 1809.

Having been regularly bred to the business of tanning, and this having been my sole occupation for twenty-five years, I have been led to reflect, with much regret, upon the general inferiority of American leather, compared with most European, and particularly English manufactured. A want of capital has been the great cause of the depressed state of this manufacture. The hide, in its natural state, is a mass of fibres; the interstices between the fibres is filled with a fleshy substance; to expel these without injuring the fibres, and then to fill the vacuum completely and entirely with what the chemists call tannin, contained in bark, is the whole art of tanning. To do this effectually, years of time is necessary, and repeated applications of fresh bark to the hide at proper periods. The establishment which I have made in this county will receive sixteen thousand full grown hides, and require a capital of one hundred thousand dollars. We have three tanneries, for the convenience of collecting bark, rather than do all our business at one place, which would necessarily soon produce a scarcity of bark, we use such a quantity—say one cord to six hides; we have six hundred and seventy-two vats, three bark mills, which grind our bark by water, between two stones, as corn is ground. We have the same number of hide mills, which go by water, for softening foreign hides, taking off the hair, and working the hides. Also, three rolling machines, which also go by water. These produce a very advantageous effect, in perfectly extending and consolidating the sole leather after it is tanned, and supersedes the necessity of the shoemaker's hammering the leather; saves entirely the labor and waste attending that part of the shoemaker's business, and gives the leather a closeness of texture by far beyond hammering or any other plan now practised. Also, I have found much advantage by applying heat, by means of a copper cylinder, adapted to the purpose, passing through vats, we call leeches, in which we make the last effort to extract the tannin from the bark, after the bark, with a decoction, has been for from thirty to ninety days applied to the hide. Most of the above methods I have originated, and from long experience find the success attending them has abundantly equalled my expectations.

Much saving of labor and bark is gained by these improvements, as must be obvious to any person who has a slight knowledge, either practical or theoretical of the business. Our forests abound with bark; our beeves afford many hides, and large quantities are imported from the Span-

ish dominions; part of which are manufactured, and part are re-exported. Slaughter hides are sometimes exported, which ought to be prohibited, if practicable. I have known, and I believe it not uncommon, that quantities of hides and bark have been exported to England, and the leather made from these hides imported and used in this country. The manufacture of leather in the Middle States is far in advance beyond either the Northern or Southern States. A heavy duty on green or slaughter hides, if constitutional, and a small duty, say one cent. per lb. on the exportation of foreign hides—a heavy impost duty on leather of every kind and in every shape, with an aid of capital, and perhaps a bounty on improvements, made public, would have a tendency to encourage the manufacture of leather. Also a law appointing inspectors of slaughter hides, to guard against the great injury they now in many places sustain by the carelessness or wantonness of the butchers in hacking and cutting them. In the city of New York, there is a loss from this source of twenty per cent. at least, without a particle of gain. Also a law appointing inspectors of leather, to prevent tanners from using an improper quantity of lime in the process, and offering their leather in market when only partially tanned, would be very useful. The tanners in Boston and its neighborhood practise this method, much to the injury of the article, and in that way to the public. The same hide, well manufactured, will assuredly be worth double to the consumer, than if poorly manufactured. Yet mankind are so much the creatures of habit, and such the nature of the business, the difference will not be readily discovered by a superficial observer. One-third of the hides tanned in the United States are imported hides. These come from the Spanish colonies almost wholly. Hides in England are uniformly higher than in this country; 4s. 6d. per stone is the least price I have seen stated; that is something more than seven cents per pound. Their bark in England costs more than their hides; that is, bark sufficient to tan a hide costs more than the hide. My slaughter hides cost me five and a half cents per pound, and my bark costs me one-thirteenth so much as the hide. Leather would be an important article of exportation, even to England, if it could be admitted there by paying no more duty than their manufactured articles pay in this country. The manufacture of leather is by no means completed when it goes from the hands of the tanner. The currier, the shoemaker, saddler, harnessmaker, and several other tradesmen fit it for various uses after the tanner has performed his operations.

[B is a statement of mills for spinning cotton, of which an account has been received.]

[C is a list of the cotton mills within thirty miles of the town of Providence, November 14, 1809.]

[D is a statement of a cotton manufactory, owned by ———, near Providence.]

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[E is a statement of manufactures of woollen cloth, of which an account has been received.]

F.—Amongst numerous other facts, the following are particularly stated:

In New Hampshire—carding machines, one for every 250 families; fulling mills, 140; cloth and flannel woven annually, 800,000 yards; cotton and flax, considerable.

In Vermont—carding machines, 135; fulling mills, 163; cloth and flannel woven annually, 1,040,000 yards; cotton and flax, 1,315,000 yards.

In Berkshire, Massachusetts—cloth and flannel woven annually, 100,000 yards; cotton and flax, considerable.

In Ontario county, New York—carding machines, 18; fulling mills, 18; cloth and flannel woven annually, 140,000 yards; cotton and flax, considerable.

In York county Maine—carding machines, 8; fulling mills, 8; cloth and flannel woven annually, 70,000 yards; cotton and flax spun and woven, 120,000 pounds.

Of the cloth and flannel thus wove, about two-thirds are cloth, generally worth more than one dollar a yard, and the remainder flannel.

In Delaware, 150,000 lbs. wool annually spun and woven in private families. Large exportations of linen from the western counties of Pennsylvania, and some from Kentucky, and several places in the Eastern and Middle States. Eighty thousand yards brought for sale, in 1809, to Pittsburgh alone; and the number of looms in that town has increased, since the year 1807, from 17 to 44. In the lower counties of Virginia, North Carolina, generally, and the upper counties of South Carolina and Georgia, almost the whole of the Summer clothing, for every description of persons, is of household manufacture; and almost all the slaves are entirely clothed in the same manner. The scarcity of wool alone prevents an adequate supply from the same source for winter clothing. The number of stores for the sale of foreign goods, has, in Matthews county, Virginia, from the year 1802, decreased from fifteen to one. At a general review of militia, last Summer, in North Carolina, where more than fifteen hundred persons were on the ground, there were not forty who were not entirely clothed with homespun.

G.—Household Manufactures in New Hampshire.

In almost every town, (of six miles square, or a district containing one or more towns.) having a population of 200 or 300 families, there is a carding machine and fulling mill. The cost of a carding machine is about \$500. One described to me, cards, annually, 6,000 pounds of wool, at seven cents per pound, attended by one hand. This mode of carding relieves the house-spinner of one-half the labor of a day, for the sum of three and a half cents.

Every farmer's house is provided with one or more wheels, according to the number of females.

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Every second house, at least, has a loom for weaving linen, cotton, and coarse woollen cloths which is almost wholly done by women.

Manufactures of these kinds amount, probably, on an average, per family, to from 100 to 600 yards in a year, without an hour's loss of labor to the field.

Considerable quantities of coarse flaxen cloth, worth from 15 to 20 cents per yard, thus manufactured in families, are sold to traders in country villages or in towns, and sent for a market to the Southern States, on which a profit is made by the trader.

A specimen of the cost and profit on the employ of a Fulling Mill, in the county of Cheshire, in dressing cloths for household manufactures.

Yearly supply of cloths, for dressing and dyeing:

Of fustian or cotton	-	-	1,000 yards.
Woollen, merely to be pressed	-	1,700	"
Woollen to be dyed, fulled, &c.	-	1,400	"
		6,700	"

The charge and sum received for dressing the above \$1,225.

The expense of labor, &c., as follows:

The proprietor states his services at	-	\$110
Two men employed four months at \$20	-	160
Two apprentices the same time	-	80
Cost of dye stuff, &c.	-	175
Other expenses	-	75

600

Leaving a balance to the mill of - 625

\$1,225

The cost of the mill and machinery is stated to be \$1,500.

The foregoing may be considered as a sample of the clothiers' mills in New Hampshire, of which there are about one hundred and forty in the State; some, probably, may do less, and others much more than the above.

The cost of manufacturing eighteen pounds of wool into twenty yards of cloth, as follows:

18 lbs. of wool (best common) at 50 cts.	\$9 00
Carding, oiling, &c., at 8 cents	- 1 44
Spinning at 14 cents	- 2 80
Weaving at 8 cents	- 1 60
Dressing colored black at 32 cents	- 6 00

\$21 24

This cloth, three-quarter yards wide, (cost per yard 106 cents,) is thick and firm, is finer than English cloths of six-quarter yards wide, sold, at retail stores, at \$3 50 per yard, and is twice as durable.

H.—Extract of a letter from William Whittemore, of West Cambridge, to the Collector of Boston, dated 24th November, 1809.

The machinery with which we now manufacture all kinds of wool and cotton cards that have been called for, were invented by Amos Whitte-

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more, in the year 1797; he then obtained the exclusive privilege of using said machines, by letters patent, for fourteen years. Amos Whittemore and myself were jointly concerned in the first machines that were built, and are still the sole proprietors of the patent. Congress, at their last Winter session, extended the patent fourteen years, by a special act. We have fifty-five of those patent machines, thirty-seven of which are now in use; these machines, with the other apparatus necessary to carry on the business to its present extent, have cost us about forty thousand dollars. We have now employed, in the factory, upwards of forty hands; we manufacture, weekly, one hundred and eighty dozen pair of hand cards, and two hundred square feet of cards for the woollen and cotton factories, which, together, amount to about two thousand dollars. Had it been in our power, the past year, to have supplied ourselves with card wire, the amount of the cards manufactured in our factory would have exceeded three thousand dollars per week; for we should have had all our machines in use. The building, in which we now carry on the business, has cost us ten thousand dollars; fifty thousand dollars, at least, is necessary for a capital to carry on the business to the extent, exclusive of buildings and machinery. We have been obliged to make great sacrifices to obtain money to enable us to carry on the business, so as to be able to answer the demand for cards; our moneyed institutions have afforded but little support to domestic manufactures. The wire is the only article necessary to the manufacture of cards, but what our own country produces, and that might be manufactured here as good, and nearly as cheap, as in England. We have so far satisfied ourselves (by experiment) that nothing, but want of capital, has prevented us from setting up that business. The iron made on Lake Champlain is found to be as good for wire, if not superior, to any ever imported. The wire, to supply our factory one year, will, in England, cost about fifteen thousand dollars, and the expenses of importing about ten per cent., (it being free of duty;) perhaps about the same quantity is used, annually, in the other card manufactories in the United States. There is no doubt in my mind, from the observations made since I have been in the manufacturing business, that, had the same support been afforded manufacturers, generally, that has been to trade and commerce, our manufactories, at this time, would have been carried on much more extensively, and would have generally afforded a profit to those concerned. Since the obstructions to our foreign trade, the manufactories of our country have increased astonishingly; the demand for wool and cotton cards, the present season, has been twice as great as it has been any year preceding. Since the receipt of your letter, my time has been so constantly occupied with the concerns of the manufactory, that I have not been able to make out any statement of it before. I have endeavored to give a general description of our manufactory; time would not permit me to be more particular.

I.

WORCESTER, November 29, 1809.

SIR: Having invented a cheap and simple method of manufacturing wood screws from iron wire, I obtained a patent for the same from the United States, in July last, and finding it extremely difficult, by any means within my power, to obtain wire of suitable sizes, I was induced to attempt the manufacturing of it; and, as a necessary appendage, to connect this business with that of screw making, the process being so easy and simple that two men of common capacity can manufacture from rods, about the size of common nail rods, three hundred weight of assorted screw wire per day; in the same time a man, with two boys, can make from the wire twenty gross of screws of a quality very much superior to those usually imported. The expense of constructing screw machines upon the principles of my patent is small, and the capital now employed, (the business being yet in its infancy,) but in one year, with the capital I can command, it would be in my power to erect as many machines as would enable me to supply the United States with that article, and of a quality much superior to any ever imported, and at as low a rate as are now paid for those imported of an inferior quality.

The manufacture of iron and brass wire has been often attempted within the United States with success, and can be carried on to a very great extent; but all the undertakers, in consequence of foreign wire being imported free of duty, have, without exception, abandoned the business; if I depended on foreign wire for the manufacturing of screws I should not be an advocate for a duty on it; but, as I make my own wire, its free importation does not affect me, as relates to the quantity appropriated to that particular use; but it very seriously affects me in a much more enlarged and extensive point of view; but if a duty of 15 or 20 per cent., ad valorem, was laid on the importation of foreign wire, the capital within the control of the company, now interested with me in this business, would enable me immediately to extend my machinery to a magnitude sufficiently extensive to meet the consumption of coarse wire within this State. The manufacture of card wire also, of which there is a great consumption within the United States, could be made to equal advantage, and would follow in course on account of the demand for it, provided manufacturers were aided by the above-mentioned duty on foreign wire; but if they should extend their works, anticipating that encouragement from Government, and it should not be given, they would suffer great loss and disappointment.

The malleability of the American iron renders the United States perfectly independent of all other countries for that first of all raw materials, and it is only by the patronage of Congress that industry and the arts can be so extensively cultivated as to take the greatest advantage, not only of this article, but of other raw materials which

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the great resources of our country furnish. The prevailing spirit of enterprise at the present time, in the exertion and extension of manufacturing establishments, is much owing to the measures heretofore adopted by Government; and I feel confident that few articles can be made in this country to so great an advantage as iron wire, and that no sufficient reason can be adduced why this article should be exempt from duty more than many others, to the particular and very great injury of our own citizens. I am, however, much encouraged to hope that the measures Government now appear to be taking, will be efficient in patronising the very laudable exertions of its citizens in the production of articles indispensable to our necessities, and especially those that are produced from the raw materials of our own country.

And the only patronage required in this business is, that the article of iron wire should be subjected to the same duty that other articles of iron manufacturers are subjected to when imported from Great Britain.

I am, most respectfully, sir, your most obedient and very humble servant,

ABEL STOWELL.

HON. HENRY DEARBORN, Esq.

I am satisfied that wire of all kinds can, and would very soon be manufactured in this neighborhood, sufficient for the consumption of the United States, if a duty should be laid on imported wire equal to what is paid on foreign articles generally. If Congress should deem it expedient to lay a duty on wire, I have good reason for believing that a considerable capital would be immediately vested in the manufactory of that article.

H. DEARBORN.

P. S.—The wood screws manufactured by Stowell, and those concerned with him, are superior in quality to imported ones; and I presume that there is no doubt, in the minds of those who have become acquainted with the facility with which they are now made, but that a sufficient quantity will be made for the use of the United States, if suitable encouragement is afforded by the Government for the manufacturing of wire.

H. D.

K.—Statement of a manufacture at Albany.

Capital, \$8,000; workmen, 20.

Number of hats annually made, at \$7, 1,600; at \$3, 1,300; at \$1, 3,000. Total, 6,400.

Value of hats annually made, \$19,600; value of foreign goods and materials annually used, \$900. Profit 15 to 20 per cent.

Memorandum by a country Hatter, in the State of New York.

PINE HATS.

Racoon, 8 ounces	-	-	-	\$2 50
Beaver, 1 ounce	-	-	-	1 00

Dye-stuff and trimmings	-	-	-	68½
Making and finishing	-	-	-	1 50
Sundries	-	-	-	25.

Net profit	-	-	-	\$5 93½
Sell for	-	-	-	1 06½

Sell for	-	-	-	\$7 00
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NAPPED HATS, FIRST QUALITY.

Wool, 5 ounces	-	-	-	\$0 20
Racoon, 1 ounce	-	-	-	31
Muskrat, 1 ounce	-	-	-	50
Dye-stuff and trimmings	-	-	-	68½
Making and finishing	-	-	-	1 25
Sundries	-	-	-	12½

Net profit	-	-	-	\$3 07
Sell for	-	-	-	1 93

Sell for	-	-	-	\$5 00
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NAPPED HATS, SECOND QUALITY.

Wool, 7 ounces	-	-	-	\$0 28
Muskrat, 1 ounce	-	-	-	50
Dye-stuff and trimmings	-	-	-	68½
Making and finishing	-	-	-	1 25
Sundries	-	-	-	12½

Net profit	-	-	-	\$2 84
Sell for	-	-	-	1 16

Sell for	-	-	-	\$4 00
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NET PROFIT.

On fine hats	-	-	-	\$1 06
On napped hats, first quality	-	-	-	1 93
On napped hats, second quality	-	-	-	1 16
On felt hats	-	-	-	60

L.

BOSTON, September 25, 1809.

With two brothers, I am interested in the manufacture of cut nails. We have an establishment at Malden, five miles from Boston, where we have in operation twenty-two patent machines upon J. Reed's plan of cutting and heading with the same operation. We are also interested in two establishments upon the same plan in the vicinity of Philadelphia. One situated on Chester creek, where we have ten machines, the other situated on French creek, where we are preparing to erect twenty machines. The three manufactories, with the mill streams, buildings and machinery, necessary for that purpose, when the French creek establishment is completed, with two rolling and slitting mills already built, will cost ninety thousand dollars. The active capital employed, seventy-five thousand dollars. With the fifty-two machines, sixty men and boys are rendered capable of manufacturing, from the nail plates, fifteen hundred tons of nails per year, and by multiplying the number of machines, a quantity could be manufactured, more

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than adequate to the consumption of the United States, more especially if Congress, duly estimating the benefits to be derived from this important branch of industry, should see fit to grant a drawback on exportation somewhat proportionate to the duty paid on foreign iron. It would be very desirable, and encouraging to manufacturers, if permanent regulations could be consistently adopted, that would tend to render cheap and plenty the raw material, and that would discourage foreign importation. Such a measure would greatly facilitate domestic manufactures; it would divert the energy and enterprise of wealthy men, from ordinary pursuits; be productive of the welfare and interest of our country; whereas only temporary regulations tend to intimidate. The encouragements offered by Government, whether prohibitory or remunerative, should at least be co-extensive with the time necessarily required for the erection of extensive works, for laborers to be instructed, and for the manufactured article to find a market, that the manufacturer may, without distress, be enabled to meet his current expenses, and to replenish his stock from the return of sales; otherwise the wealth and influence of foreign competition, would, by long credits, and by purposely furnishing a surplus of cheap inferior articles at a low price, not only retard, but impoverish, the very existence of any infant manufactory in our country. If the foreign manufacturer can find a ready sale for his goods in the United States, at cost and charges, his object is gained, the manufacturing profit is secured, and not unfrequently, both to the injury of the consumer, and of the American manufacturer; to the consumer, because the cheapest goods are commonly the most deceptive, and to the American manufacturer, by an unexpected influx of foreign goods in his line, he may be defeated in his calculations, be supplanted in his sales, and compelled to warehouse a heavy stock of finished goods until the season is past for procuring, to advantage, the raw material indispensably necessary to his business. Being thus situated, he must either abandon his employment, or resort to the painful alternative of sacrificing his finished goods for less than their cost, or borrowing money upon usury, to replenish his stock at an advanced price, either of which, to a moderate capitalist, if persisted in, is inevitable ruin. English nails, the fine drawn excepted, are usually made of inferior iron, and are sometimes transported to this country in lieu of ballast, almost freight free, and sold for cost and charges; and their hoops, rods, and nail plates, are made from a kind of unwrought iron, by a process recently invented; and when the latter are cut into nails they are tender and brittle, hence arises a prejudice against all cut nails, the consumer being ignorant of the cause; but cut nails, made of Russia, Swedish, or American iron, are a good substitute for hammered nails, and, in fact, have the preference with most people, for the following reasons, viz: on account of the sharp corners and true taper with which cut nails are formed, it may be driven into harder

wood, without bending or breaking, or hazard of splitting the wood, by which the labor of boring is saved, the nail, one way, being of the same breadth or thickness from head to point. A moment's recurrence to the origin of this art, and to its rapid progress within a few years in this State, may not be amiss at this time. By the effect of necessity, in the time of the Revolution, cut nails were first made of the rusty hoops of old casks, and were as worthless as the materials of which they were made; but, after the introduction of rolling and slitting mills into the State, nail plates of new iron were substituted instead of rusty hoops, yet nails were for some time manufactured in a very imperfect manner; at present it is otherwise. There are now in this vicinity extensive nail manufactories, with useful machinery for the saving of labor, and the business is better understood and conducted, and the quality of cut nails is so much improved, that little seems to be wanted in order to success, but the protection and patronage of Government. By the best information I can obtain, I find that, on an average of the last three years, the quantity of nails and brads manufactured within the State, may be computed at no less than two thousand tons per year, of which about seventeen hundred and fifty tons have been cut, the residue hammered.

The foreign relations of our country, for some years past, have been so contingent, that the price of iron has been fluctuating between ninety-five and one hundred and forty dollars per ton, while the consumption of nails has been diminishing, and of course the demand for them; and notwithstanding foreign nails have been prohibited, yet the quantity on hand when the prohibition commenced, added to the quantity since manufactured in the United States, with a great diminution of exports, has left no chance for them to rise in proportion to the rise of the raw material. The manufacturer's profit is, therefore, less than it was prior to the rise on iron. During the present contest with Great Britain, both the French and Spanish colonies in America and the West Indies have received considerable supplies of nails from the United States, and particularly cut nails, which they preferred for many purposes. Reference to the custom-house books will probably show the difference between the imports and exports, and the result, the expediency or in expediency of encouraging, by drawback, the exportation of them.

In the event of a peace in Europe, and a free trade between Great Britain and the Spanish colonies, the former, perhaps, could supplant the American supply of this article in the markets of the latter, were not Congress to grant some encouragement, either by drawback or bounty, to the exporter.

The fact is, that American iron, although the ore is excellent, is brought to market and sold in an unfinished state. It is not sufficiently hammered to be sound; and it is hammered in a state so cold, that the seams and cracks (of which there are many) do not close and weld. The iron

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therefore, to the worker or consumer, is worth less by ten dollars per ton, than iron finished in the style of Russia or Sweden. And this is not all; for the ends of the bars of American iron are so unsound that they are only fit for snap iron, and in fact are cut off and sold as such by the manufacturer, who pays full price for them—losing thereby five dollars and twenty-five cents, besides loss sustained by transportation and frequent handling. This being the case, and the manufacturer not being disposed to a reform, I should be sorry to be left in their hands, or be subject to their pleasure, so much as I would be, if our Government would adopt any effectual measures to prevent the importation of iron, under the mistaken impression that our country is at present capable of producing a sufficient quantity for its own consumption. Anything that would tend permanently to advance the price of iron, by increasing the demand, would tend to increase its inferiority in point of intrinsic value; for, when any article in our markets, of home manufacture, produces the highest price, and is in demand, it is frequently hurried off hand in a very unfinished and slovenly manner—even in such an imperfect state as would not in common times sell at any price. It is therefore necessary that our country should be protected from impositions of this kind, and that, instead of prohibiting the importation of iron, (as some would have it,) it should continue to be encouraged, until we can be supplied at home, with less hazard. These occasional remarks you can think of, and, if proper, use them to advantage.

M.

Boston, August 13, 1809.

The importance, in Massachusetts, of nail machinery, and all that relates to rolling and slitting mills, with which nail machinery is immediately connected, requires that a particular account should be given of them.

In old countries, nails are forged; here, they are cut, and it is curious to trace the progress of American genius through the various steps of this invention. Twenty years ago some men, now unknown, and then obscure, began by cutting slices out of old hoops, and by a common vice gripping those pieces, headed them with several strokes of the hammer. Gradually, slitting mills were built, and the shears and the heading tools were perfected; yet much labor and expense were requisite to make nails. In a little while, Jacob Perkins, Jonathan Ellis, and a few others, put into execution the thought of cutting and of heading nails by water; but, more intent upon their machinery than upon their pecuniary affairs, they were unable to prosecute the business. At different times, different men have spent fortunes in improvements, and, it may be said with truth, more than a million of dollars; but at last these joint efforts are crowned with complete success, and we are now able to manufacture, at about one-third of the expenses, that wrought nails can be manufactured for, nails

which are superior to them for at least three-fourths of the purposes to which nails are applied, and which, for seven-eighths of those purposes, are as good. The machine made use of by Odiorne, that lately invented by Jonathan Ellis, and a few others, present very fine specimens of American genius.

To northern carpenters it is well known that, in almost all instances, it is not necessary to bore the wood before driving a cut nail; all that is required is to place the cutting edge of the nail across the grain of the wood. It is also true, that cut nails will hold better in the wood. These qualities are, in some instances, worth twenty per cent. of the value of the article, which is equal to the whole expense of manufacturing it. For sheathing and drawing, cut nails are full as good as wrought nails; only in one respect are the best wrought nails a little superior to cut nails, and that is where it is necessary they should be clinched. The manufacture of cut nails was born in our own country, and has within its bosom advanced through all the various stages of infancy to manhood, and, no doubt, we shall be soon able, by receiving proper encouragement, to render them superior to wrought nails in every particular.

The principal business of rolling and slitting mills is rolling nail plates. They also serve to make nail rods, hoops, tires, sheet iron, and sheet copper. In this State we have not less than twelve, viz:

At Dover, one owned by the Boston iron and nail factory, which is composed of John and Samuel Welles, and R. Whiting.

At Plymouth, one owned by Samuel Spear, W. Davis, and Nathaniel Russell.

At Dover, Beverly, Amesbury, one each, all incorporated companies, owned, in part, I presume, by William Gray, Samuel Gray, and Os-good.

At Newton, one owned by Rufus Ellis, General Elliot and others.

At Norton, one.

At Taunton three, owned by Leonard and Crocker and others.

At Bridgewater, two.

These mills could roll and slit 7,000 tons of iron a year. They now, it is presumed, roll and slit, each year, about 3,500 tons, 2,400 tons of which probably are cut up into nails and brads.

These 3,500 tons sell for as much as \$700,000, and we may call American labor and profit three-fifths of it, when foreign iron is employed, and the whole of it, when our iron is made use of.

It is useless to observe that the consumption of cut nails has increased in proportion as their manufacture has been brought to perfection. As late as ten years ago it was very small, and the increase has been much less rapid than it would have been had the rivalry of foreign nails not stood in the way.

The English iron imported into this country, either in bars or in nail plates, or in nail rods, or in hoops, is not good for anything, nor are tires manufactured with it of any use. Out of

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the ore they roll the iron into bars, without hammering it, which saves them much expense; but the consequence is, that although the ore be good, and although the iron looks well, yet it is not compact at all; has no strength, and good, as the razors of Peter Pindar, "to sell but not to use." The fact is, the British never employ it in their own country, nor can a man, while he is buying a hoop, or a tire, or a cut nail, distinguish whether it was made out of English iron. To prevent this species of fraud it is necessary that Government should prohibit, entirely, the importation of English bar iron, nail plates, nail rods, &c. This will also encourage the manufacture of our own iron. At particular times America has been filled with the refuse of English nails and brads, and then the American manufacturer has been obliged to stop his works and subject to losses, and the consumer, deceived by the name of English nails, has bought this refuse greatly to his injury. It is, therefore, highly important to prohibit the importation of English nails and brads of all the kinds which can be replaced immediately by American, and this includes all except fine drawn nails, upon which an extra duty of one cent per pound might be placed, and if no part of this extra duty were drawn back, it would by thus much encourage the exportation of American nails.

Nor can the Legislature be restrained from prohibiting foreign nails and brads by a fear that the American manufacturers will be unable to furnish the quantity wanted; for almost immediately they could manufacture half as many again as they now do, and, in six months, could increase this to any quantity desired; nor is it to be feared that the prices will be advanced by monopoly, as the different patent rights of improved nail machinery are owned by a great many individuals totally disconnected, and as some pretty good machines are common to all. It is also well to state, in addition, that cut nails have been exported in considerable quantities, and gone to a good market. Whilst they were not so well made, they were sold in foreign ports without a profit. In Havana, and in many other places, they now actually prefer *4d.* cut nails of a good quality to the best English nails with which they have usually been supplied. I cannot leave this subject without adding one word more about English iron. It may be the plan of the English, when selling it to us, to bring into discredit American cut nails and other American manufactured articles. Unfortunately a great proportion of those articles, and especially cut nails, has been manufactured out of that iron, and probably it ever will be, because the articles cost less, look full as well, and sell as well to those who never bought any before. It is almost impossible for many people to distinguish between good and bad cut nails, and some are led to prefer giving a higher price for English wrought nails, which are no better than cut nails manufactured out of any iron but English. I have already observed that the mills in Massachusetts could manufacture seven thousand tons of iron, while they only

manufacture three thousand five hundred tons. This arises mostly from the rivalry with imported articles of the same kind—a rivalry which the Legislature may do away at once.

It need not be mentioned that the iron manufacturers have, on exportation, an equitable right to a drawback of the duty on imported iron.

In Massachusetts originated the project to manufacture cut nails, and there it has first been brought to its present state of perfection. Lately, manufactories have been erected to a considerable extent in New York, Pennsylvania, and Maryland, and unquestionably they will rapidly multiply there, and soon be spread all over the country, if the encouragements are given by the Legislature which are suggested in this sketch. If the Legislature should determine to allow a drawback of the duty on iron when manufactured, it might be well, to render the thing more simple, to change that duty, which is now *ad valorem*, into a specific duty by the pound. Say, for example, make it one cent. per pound.

N.

WRENTHAM, Oct. 1, 1800.

Straw Bonnets.—This business commenced in this town in the year 1801. At that time, the English straw bonnet had become the fashionable out-door head dress of the ladies in large towns, who are allowed always to take the lead in the fashions. The prices demanded for them were so great as to prevent the farmer's daughters purchasing them. A young lady, stimulated with a desire to appear not less fashionable than those who were better able, or more willing to pay an extravagant price for a bonnet, conceived that she might, with her own ingenuity and industry, fabricate one for herself, equal in quality, and less in expense than an English bonnet would cost. The bonnet was soon completed, and was thought to be no way inferior to the English. This first successful effort of the young lady soon commanded customers, who were furnished with bonnets at about half the price which was paid for those imported.

The demand for these bonnets increasing, others were induced to try their ingenuity. These small attempts were generally crowned with success. In a few months the manufacture of bonnets exceeded the domestic demand for them. The surplus were entrusted to the care of a man who frequented the market at Boston, with the common productions of the country, who made such returns as not only to encourage the first adventurers to continue the business, but, to induce others, also, to become adventurers; so that, at the end of one year, the bonnet business had become an important article of traffic in this vicinity. Since which, the business has actually increased, and the demand for hats and bonnets becomes more and more extensive. The principal part of this business is done in the towns of Wrentham, Franklin, Medway, Medfield, Billingham, Walpole, Sharon, and Foxborough. Some towns in the counties of Bris-

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tol and Worcester have likewise entered into this business. This concise history of a manufactory which owes its commencement to mere accident, may not be uninteresting to you, in which I have been a little particular to show from what small beginnings an important article of merchandise may be produced. Could you have believed that the annual amount of straw hats and bonnets made in the town of Wrentham alone is equal to one hundred thousand dollars? This I suppose to be within bounds. For the amount in the other towns in the county of Norfolk, abovementioned, I add one hundred thousand dollars more. This sum is, perhaps, much too small. Bristol and Worcester manufacture to a considerable amount, and the business has commenced, I have been informed, in the other parts of the State.

It is to be understood that the above sum of two hundred thousand dollars is exclusive of hats and bonnets made and worn by those who manufacture them. These bonnets and hats are exported not only to New York, Philadelphia, Baltimore, Virginia, North Carolina, Charleston, South Carolina, Savannah, and New Orleans, but to several of the West India islands.

CASE OF GIDEON OLMSTEAD.

[Communicated to the Senate, June 11, 1809.]

To the Senate of the United States :

In compliance with the request of the Legislature of Pennsylvania, I transmit to Congress a copy of certain of its proceedings communicated for the purpose by the Governor of that State.

JAMES MADISON.

JUNE 4, 1809.

Resolutions of the Pennsylvania Assembly.

Whereas, the Governor, in a communication to the Legislature, has represented that the Supreme Court of the United States had ordered a peremptory mandamus to be issued in the suit of Gideon Olmstead and others *versus* Elizabeth Sergeant and Esther Waters, executrixes of the late Mr. Rittenhouse: and that immediate application will be made to Richard Peters, judge of the district court of Pennsylvania, for an execution against the persons and effects of the said Elizabeth Sergeant and Esther Waters; or that, rather an attachment for their persons will be the compulsory process adopted on this occasion; and that, in conformity to the provisions of an act of Assembly passed the second of April, 1803, it becomes the duty of the Executive to protect the property and persons of the said executrixes against such process: and whereas the causes and reasons which have produced this conflict between the General and State Governments should be made known, not only that the State may be justified to her sister States, who are equally interested in the preservation of the State rights, but to evince to the Government of the United States that the Legislature, in resisting encroachments on their rights, are not acting in

a spirit of hostility to the legitimate powers of the United States court, but are actuated by a disposition to compromise, and to guard against future collisions of power, by an amendment to the Constitution; and that, whilst they are contending for the rights of the State, it will be attributed to a desire of preserving the Federal Government itself, the best features of which must depend upon keeping up a just balance between the General and State Governments, as guarantied by the Constitution.

Be it therefore known, That the present unhappy dispute has arisen out of the following circumstances:

That, in the night of the 6th of September, 1778, Gideon Olmstead, being a prisoner on board the armed sloop Active, bound to New York, on the passage prevailed on three of the seamen to assist him in endeavoring to take the said sloop from the captain and the rest of the crew, and to carry her into an American port. In pursuance of this bold and hazardous design, they secured the captain and crew under deck, and contemplated running the sloop into Egg Harbor: a considerable contest then arose between those under, and those on deck, for the command of the vessel.

On the 8th of September they were boarded by the brigantine Convention, fitted out by the State of Pennsylvania, commanded by Captain Thomas Houston, and, in a very short time after the sloop Active was thus seized by the Convention, the privateer sloop Le Gerard, of Philadelphia, commanded by Captain James Josiah, hove in sight.

The prize was brought into the port of Philadelphia, and was libelled in the Court of Admiralty of the State, on the 14th of September. Captain Thomas Houston for the State, himself, and crew, claimed one-half; Captain James Josiah, commander of the privateer sloop Le Gerard, for himself, crew, and owners, as consort of the Convention, and as in sight at the time of the capture, claimed one-fourth, allowing one-fourth for the four persons who first rose upon the crew of the sloop Active: Gideon Olmstead and his companions claimed the whole, alleging that they had risen on the captain and crew, had confined them in the cabin, had assumed the sole command and direction of the sloop, and were proceeding towards Egg Harbor with the captain and crew, subjected and reduced, when the said sloop was seized by the brigantine Convention. And the great question for decision was, whether Gideon Olmstead had subdued the captain and crew of the Active, or whether hostilities had ceased, when the Convention and Le Gerard came up with her?

The Court of Admiralty is the appropriate court for the trial and decision of all cases of prize. But how that court shall be constituted, must depend upon the will of the nation or State to which it belongs. The Legislature are, however, inclined to believe, that the interposition of a jury in admiralty causes was peculiar to some of the American States, and a remarkable in-

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stance of a departure from the usage of nations. It was, however, bottomed on the following resolution of Congress of November 25, 1775: that it be recommended to the several Legislatures in the United Colonies, as soon as possible, to erect courts of justice, or give jurisdiction to the courts now in being, for the purpose of determining concerning the captures to be made as aforesaid, and to provide that all trials in such case be had by a jury, under such qualifications as to the respective Legislatures shall seem expedient. That, in all cases, an appeal shall be allowed to the Congress, or such person or persons as they shall appoint for the trial of appeals, &c.

By an act of the Assembly of Pennsylvania, passed September 9, 1778, a Court of Admiralty was established. The trial was to be by jury, who were to be sworn or affirmed, "to return and give a true verdict according to evidence; and the finding of the said jury shall establish the facts without re-examination or appeal."

In all cases of capture, an appeal from the decree of the judge of admiralty of this State shall be allowed to the Continental Congress, or such person or persons as they may from time to time appoint for hearing and trying appeals, &c.

On the 4th of November, 1778, the cause came on to be tried before a struck jury, who, after hearing all the exhibits, and the arguments of the respective advocates thereon, and taken time to consider thereof, on the following day returned their verdict, finding one fourth part of the net proceeds of the sloop *Active* and her cargo to the first claimants, (Gideon Olmstead and others,) and three fourth parts of the net proceeds of the said sloop and her cargo to the libellant, (Captain Houston,) and the second claimant, (Captain Josiah,) as per agreement between them. The jury thus decided the great and important fact "that hostilities had not ceased on board the sloop *Active* at the time the brigantine *Convention* came up with her; in other words, that the captain and crew had not been *then* subdued." The judge made his decree accordingly, and the same day Gideon Olmstead and the three seamen appealed from the verdict, decree, and sentence.

At this period no Court of Appeals had been established under the authority of Congress, or in pursuance of the Articles of Confederation of the 9th of July, 1778. But committees of appeals had been from time to time appointed, consisting of members of Congress. By the ninth article of confederation, Congress was vested with power of "appointing courts for the trial of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of Congress shall be appointed a judge of any of the said courts."

The time when Pennsylvania seceded to the Confederation is, perhaps, immaterial. It was not finally adopted by all the States, and ratified, until the 1st of March, 1781. It is, therefore, to be presumed that the Committee of Appeals, as appointed by Congress, was competent as to au-

thority, even under the provision of our own law, as no objection appears ever to have been suggested on this head.

But as to the authority or extent of the jurisdiction of the Committee of Appeals, a difference of opinion has arisen among the wisest and best informed of our citizens; and this question, of mighty moment, indeed, has agitated all Pennsylvania for thirty years.

If the Committee of Appeals had authority to revise facts which had been already established by the verdict of a jury, there was an end of the question. Their decree was conclusive and final; it could not be opened or reviewed; and it ought to have been carried into effect.

But Pennsylvania has uniformly, by all her public acts, denied the authority of the Court of Appeals to re-examine or control the verdict of the jury. The decision of a State is always important, and of infinite weight in comparison with mere private opinion. An assertion of her right was an obvious consequence; and an attempt to interfere with that right *ex parte* cannot fail to call forth, on her part, feelings of the deepest regret.

It is true that Congress, with the approbation and acquiescence of the people, exercised the power of war and peace; and, however imperfect their sovereignty might have been, they administered it with glory and advantage to the United States. It is equally true they commissioned privateers to cruise against the enemy; and to this high power, it is said, the question of prize is incidental. And if it would result from this that they had power to establish Courts of Admiralty, yet it is equally clear they did not exercise this power; and, by the Articles of Confederation, it was not vested in them, but merely the power to establish a Court of Appeals in cases of captures, although, by the same instrument, they had power "to establish courts for the trial of piracies and felonies upon the high seas, and the right of establishing rules for deciding, in all cases, what captures on land or water shall be legal, and in what manner prizes taken by naval or land forces, in the service of the United States, shall be divided or appropriated." And whatever construction might have been had, if the decree of reversal had been in the court established after the Confederation, yet in 1778 it had no binding force; nor did they profess to act under it. Courts of Admiralty for the trial of captures, or the prize courts, could then be established only by the respective States.

Congress recommended to the several States to establish Courts of Admiralty, and to provide that all trials in such case be had by a jury, under such qualifications as to the respective Legislatures shall seem most expedient, reserving, in all cases, an appeal to Congress, &c.

However incidental the question of prize, or cases of captures, may be to sovereign power, the principle cannot apply, in its full extent, to the imperfect sovereignty exercised by the United States. Their authority was gradually acquired by the consent and acquiescence of the States;

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and, where it was thus acquired, the exigencies of the new formed Union required that it should be deemed legitimate, though never expressly assented to. The power of establishing Courts of Admiralty they never assumed. The inference, therefore, is forcible, that they had not the power; or why recommend to the States to establish Courts of Admiralty, if, by virtue of their newly acquired sovereignty, they could themselves have established them? If they could not erect Courts of Admiralty jurisdiction, in the first instance, they could not, without the consent of the State, erect the appellate court. The State which established the Admiralty Court must likewise possess the power to regulate the appellate jurisdiction from its decrees; and, by the assent of the State, the appellate jurisdiction was, at their own requisition, given to Congress, where the interest and safety of the Union required it should be deposited, but under certain restrictions.

The Admiralty Court, being the court of all nations, has, by the usage of nations, been governed by the rules and principles of the civil law. It has always proceeded without a jury; and from its decrees on an appeal, the facts, as well as the law, have always been subject to a re-examination. But when Congress recommended the decision of facts in that court by a jury, strangely departing from the usage of nations, the consequence inevitably followed that the facts established by the jury could never be re-examined on an appeal. The party dissatisfied might have applied for a new trial; but there is no other way of reversing the facts determined by a jury. When, therefore, Congress recommended that the trial in such cases should be by jury, from the uniform course of proceeding in such trials, it is at least presumable they did not intend, by reserving an appeal, that the facts should be re-examined; and the only fair or consistent construction would be, that there should be an appeal on the points of law appearing on the record. That such was the intention of the Legislature of Pennsylvania is beyond doubt, when they declared "that the finding of the jury shall establish the facts, without re-examination or appeal;" and although, by the same act, they gave an appeal to Congress, it cannot be absurdly supposed that they meant to contradict and destroy the principle they had at the same instant so solemnly declared and adopted. The question itself to be tried was a mere fact, "Who captured the sloop Active?" The jury decided that fact.— They could judge of the circumstances, as well as the credit or credibility of the witnesses. If their decision, therefore, was not to be conclusive, but to be open to a re-examination, on an appeal, before a committee of Congress, in the shape of a Court of Appeals, the jury trial was a solemn mockery, calculated for expense and trouble, but productive of no good. In the case of Ross and Rittenhouse, the Chief Justice declared "that the genius and spirit of the common law will not suffer a sentence of the lowest court, founded on a general verdict, to be controlled or reversed by the highest jurisdiction, unless for error in mat-

ter of law, apparent upon the face of the record." And the same Chief Justice was also of opinion that the principle was forfeited by the resolution of Congress of January 15, 1780, "that the trials in the Court of Appeals should be according to the usage of nations, and not by jury." And on the 31st of the same month, accordant with this resolution, the Legislature of Pennsylvania appear to have been willing, for the future, to change the practice; for they resolved, "that, if the mode of trial by jury, (in cases of captures,) as recommended by Congress, is found inconvenient to the circumstances of the United States, as being a mode unknown to most of the civilized States of Europe, this House is desirous of conforming to the customary practice."

But, notwithstanding this mode of reasoning, the Committee of Appeals undertook to re-examine the whole case; they set aside the verdict of the jury, reversed the sentence of the Judge of the Admiralty, and decreed the whole proceeds of the prize to the appellants, with costs. The Judge of the Admiralty refused to carry this decree into effect; and, on the 28th of December, further decreed "that, although the Court of Appeals have full power to alter or set aside the decree of the judge of this court, yet that the finding of the jury in the cause does establish the facts in the cause without re-examination or appeal, and, therefore, the verdict of the jury still standing, and being in full force, the court cannot issue any process, or proceed in any manner whatsoever contradictory to the finding of the said jury;" and he ordered the money to be brought into court, there to remain ready to abide the further order of the court therein.

Here, then, began the great contest for jurisdiction. On the 4th of January, 1779, the Committee of Appeals issued their injunction to the marshal to detain the money in his custody, to wait the further orders of the court. The marshal, notwithstanding, paid the money to the Judge of the Admiralty, in obedience to the decree of that court. The Committee of Appeals would proceed no further, but ordered to be entered on record "that, as the judge and marshal of the Court of Admiralty for the State of Pennsylvania, had absolutely and respectively refused obedience to the decree and writ regularly made in, and issued from, this court, to which they, and each of them, were and was bound to pay obedience; the court being unwilling to enter into any proceedings for contempt, lest consequences might ensue, at this juncture, dangerous to the public peace of the United States, will not proceed further in this affair, nor hear any appeal, until the authority of this court shall be so settled as to give full efficacy to their decrees and process;" and they ordered a state of the proceedings to be prepared that they might lay it before Congress. On the 21st of January a committee was appointed by Congress to examine into the principles of the powers of the Committee of Appeals, and the causes of the refusal of the Judge of the Court of Admiralty, in the State of Pennsylvania, to execute their decree; which

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committee, on the 6th of March following, reported specially, the finding of the jury, and decree thereon, the reversal thereof, the reasons of the judge, and act of Assembly of Pennsylvania, as they are before stated.

Whereupon, it was resolved, "that Congress, or such person or persons as they appoint to hear and determine appeals from the Courts of Admiralty, have, necessarily, the power to examine as well into decisions on facts as decisions on the law, and to decree finally thereon; and that no finding of a jury in any Court of Admiralty, or court for determining the legality of captures on the high seas, can, or ought to destroy the right of appeal, and the re-examination of the facts reserved to Congress.

"That no act of any one State can or ought to destroy the right of appeal to Congress in the sense above declared.

"That Congress is, by these United States, invested with the sovereign supreme power of war and peace.

"That the power of executing the law of nations is essential to the sovereign supreme power of war and peace.

"That the legality of all captures on the high seas must be determined by the law of nations.

"That the authority, ultimately and finally, to decide on all matters and questions touching the law of nations, does reside, and is vested in the sovereign supreme power of war and peace.

"That a control, by appeal, is necessary in order to compel a just and uniform execution of the law of nations.

"That the said control must extend as well over the decisions of juries as judges, in courts for determining the legality of captures on the sea; otherwise the juries would be possessed of the ultimate supreme power of executing the law of nations in all cases of captures; and might, at any time, exercise the same in such manner as to prevent a possibility of being controlled: a construction which involves many inconveniences and absurdities, destroys an essential part of the power of war and peace entrusted to Congress, and would disable the Congress of the United States from giving satisfaction to foreign nations complaining of a violation of neutralities, of treaties, or other breaches of the law of nations, and would enable a jury, in any one State, to involve the United States in hostilities; a construction which, for these and many other reasons, is inadmissible.

"That this power of controlling by appeal the several Admiralty jurisdictions of the States has hitherto been exercised by Congress, by the medium of a committee of their own members.

"Resolved, That the committee, before whom was determined the appeal from the Court of Admiralty, for the State of Pennsylvania, in the case of the sloop Active, was duly constituted and authorized to determine the same.

"Resolved, That the said committee had competent jurisdiction to make thereon a final decree, and therefore their decree ought to be carried into execution." And they thereupon re-

quested the Assembly of Pennsylvania to appoint a committee to confer with a committee of Congress on the subject.

If the reasoning in the foregoing resolutions establishes the propriety of proceeding, in cases of Admiralty jurisdiction, according to the law and usage of nations, and which is now the law of the land, it could not change the law as it then stood; therefore, could have no effect upon Pennsylvania, tenacious of her own rights, resting upon her own laws, and understanding as well as any other State the extent of the power of Congress, and the authority she had consented to vest in that body. Committees were appointed to confer with a committee of Congress, but every conference was ineffectual; and on the 31st January, 1780, by a unanimous vote of the General Assembly, the following decisive instructions were transmitted to the Pennsylvania delegation in Congress:

"GENTLEMEN: The House being informed that it has been proposed in the honorable Congress that an order be drawn on the Treasury of the United States, for the amount of three-fourths of the net proceeds of the sloop Active and her cargo, and to pay the same to Gideon Olmstead and others, appellants in that case, in order to satisfy the decree of the Court of Appeals for prizes made at sea, and that the same be charged to the State of Pennsylvania, referring said State for indemnification to the three-fourths in the hands of the Judge of the Admiralty of Pennsylvania.

"The House, in consequence of the above, have taken the premises into their most serious consideration, and adopted the instructions given by the last House of Assembly, (March 10, 1769,) to a committee of the said House, who had been appointed to confer with a committee of Congress in the case of the sloop Active; which instructions are in the following words:

"Resolved, 1st. That the power of establishing courts for receiving and determining finally, appeals in all cases of captures, is reserved in Congress by the Articles of Confederation; and as the State of Pennsylvania has acceded to these articles, this House esteem it their duty to adopt such regulations, consistent with the principles of the Confederation, as Congress may judge necessary for the due exercise of the said power.

"Resolved, 2d. That, by an act of this Commonwealth for establishing a Court of Admiralty, it is declared and enacted, that the finding of the jury shall establish the facts without re-examination or appeal, and that the act is not repugnant to, but consistent with the resolutions of Congress of the 25th of November, 1775.

"Resolved, 3d. That the proceedings in the Court of Admiralty, in the case of the sloop Active, were founded upon the aforesaid act of Assembly, which, together with the said resolve, form the true ground whereupon the decision of the contested point should be made, without involving a consideration of the necessity or propriety of future alterations.

"The House likewise instruct you immediately to inform the honorable body, of which you are

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members, that this House will consider any application of the money of this State, by Congress, to the purpose aforesaid, as a high infringement on the honor and rights of the Commonwealth of Pennsylvania; and, in this view, will complain, in an especial manner, of those delegations which shall concur in any vote for that purpose, to the several legislative bodies from whom they respectively derive their powers.

"And you are further instructed to enter a protest, in behalf of this State, that we will pay no part of the sum which Congress shall award, out of the Treasury of the United States, in consequence of the decree of the Court of Appeals.

"We also instruct you to inform Congress that the manifest right of the citizens of this State to the benefit of its laws has, some time since, obtained from the authority thereof, an order for the distribution of the three-fourths, given by the verdict of the jury in this case, to the captains and crews of the brigantine Convention and her consort.

"The House views with astonishment the perseverance and decision of Congress, in rolling upon this State an embarrassment created by the Court of Appeals.

"Congress recommended a trial by jury to be introduced into the Court of Admiralty. The Assembly of Pennsylvania adopted the measure. A jury, in the case of the sloop Active, founded their verdict upon the facts. It is the proper business, and the strict right of juries to establish facts; yet the Court of Appeals took upon them to violate this essential part of jury trial, and to reduce, in effect, this mode of jurisprudence to the course of the civil law; a proceeding to which the State of Pennsylvania cannot yield.

"If the mode of trial by jury, (in cases of captures,) as recommended by Congress, is found inconvenient to the circumstances of the United States, as being a mode unknown to most of the civilized States in Europe, this House is desirous of conforming to the customary practice.

"The House finally remind you of the laws, which, they understand, have been passed in some of the States of the Union, denying all appeal in law, as well as fact, to the Court of Appeals established by Congress for prize causes, except the claimants be foreigners, or captors in the pay of Congress; by the operation of one of which laws, Mr. Hugh McCulloch, a citizen of Pennsylvania, was debarred from removing the case of a ship and cargo condemned in New England, into the said Court of Appeals, and that little notice appears to be taken of these laws, whilst Pennsylvania, conforming to the recommendation of Congress, concerning admiralty jurisdiction, in the most legal and usual construction of the expression, has not, in our opinion, been treated by that honorable body with sufficient respect and attention."

Such, then, has been the decisive stand which Pennsylvania has uniformly made against the decree of the Committee of Appeals. Can we undertake to say, from a view of the case, that our predecessors, for thirty years, have been

wrong? Yet the opinions of public men have been various. Chief Justice McKean, in the case of Ross and Rittenhouse, judicially declares "that the decree of the Committee of Appeals was contrary to the provisions of the act of Congress, and of the General Assembly, *extra judicial, erroneous and void.*" Two of the judges, who sat in the same cause, although they do not expressly negative this opinion, appear not to concur in it. The Supreme Court of the United States, in the case of Pennhallow and Doane, unanimously affirm the authority of the Court of Appeals; and, upon the decision of this case, it would appear this contest has been revived, after it had slumbered for twenty-three years; and, as it would seem, even after Congress had abandoned the right.

But the Legislature cannot relinquish this part of the case without once more referring to the proceedings of Congress on this long litigated point.

Mr. Ellery, Mr. Hand, Mr. Speight, Mr. Jefferson, and Mr. Lee, a committee of Congress, to whom was referred the proceedings and sentence of the Court of Appeals, in cases of capture, on the case of the ship Susanna, reported; and, after stating that the resolution of the 25th of November, 1775, had been complied with by the several States, some of them ceding appeals to Congress on a larger, and some on a more contracted scale; that the Court of Appeals had reversed the sentence passed by the inferior and superior courts of New Hampshire, in the case of the ship Susanna; that all these proceedings were prior to the completion of the Confederation, which took place on the 1st day of March, 1781. They resolved, That the said capture having been made by citizens of New Hampshire, carried in, and submitted to the jurisdiction of that State, before the completion of the confederation, while appeals to Congress were absolutely refused by their Legislature, neither Congress, nor any person deriving authority from them, had jurisdiction in the said case." On the 30th of March, 1784, the report was taken up, and on the question of agreement, on the yeas and nays, six States voted for the resolution, two States, and Mr. Read from South Carolina, voted against it, and two States were divided; and in numbers, the yeas were 15, the nays 9; but there not being a majority of States in the affirmative, the question was lost. It may not be unworthy of remark, that, on the above resolution, Mr. Jefferson voted in the affirmative; as also did Mr. Ellery, who was one of the Court of Appeals, which reversed the decree of the Pennsylvania Court of Admiralty; and as Pennsylvania allowed an appeal only on a contracted scale, that could no more be exceeded than it could in the case of the New Hampshire, who allowed no appeal at all.

There is no reason, therefore, for departing from the principles and opinions of our predecessors, unequivocally declared in their public votes and laws, respecting the case of the sloop Active, without a single exception from the first moment of the contest.

The second part of the case exhibits facts and

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circumstances of the deepest interest and concern to Pennsylvania. An attempt has been made by the district court, deriving its authority from the Constitution of the United States, to enforce the decree of the Committee of Appeals; the jurisdiction of which, to reverse the facts established by a jury, Pennsylvania had so long resisted; and which even Congress, under the confederation, had so long abandoned; not only to enforce it, but to enforce it *ex parte*; without power to examine the merits or to control its errors; without notice to the State, or consulting its interests; not only thus to enforce it, but to convert the treasurer and agent of the State, acting under its immediate authority, into a stake-holder, as a mean to reach the funds of the State, and to affect its rights.

If this can be done, the amendment to the Constitution would be a dead letter. The State can act under its laws only by its agents. Its moneys remain in the hands of its treasurers. If the officers can be converted, by the decree of a judge, into stake-holders, there can, perhaps, be no possible case in which the Constitution may not be evaded.

It sufficiently appeared, in answer to the libel, that Mr. Rittenhouse received the money as treasurer of the State, for the use of the State. It appeared decisively on the public records of the Commonwealth. But it is alleged, "that the amendment to the Constitution simply provides that no suit shall be commenced or prosecuted against the State. That in this case the suit was not instituted against the State or its treasurer, but against the executors of David Rittenhouse. That if the proceeds had been the actual property of Pennsylvania, however wrongfully acquired, the disclosure of that fact would have presented a case on which it is unnecessary to give an opinion.

Such is the language of the Supreme Court of the United States. If the process and jurisdiction of the Admiralty Court will reach and extend over the proceeds of prizes found within the district; and individuals, no party to the original decree, can be libelled against, is all investigation to be foreclosed? or, if it be not in the nature of an original suit, but merely a proceeding to enforce a decree of a former court, in which Captain Josiah and Captain Houston were parties, why are Captain Josiah and the representatives of Captain Houston unheard in this strange proceeding?

It is further alleged, and is made a ground of decision by the Federal Courts, "that the property which represented the Active and her cargo was in possession, not of the State of Pennsylvania, but of David Rittenhouse as an individual, after whose death it passed, like other property, to his representatives."

It is, however, clear that David Rittenhouse could not have received a farthing of the money, as David Rittenhouse, but as treasurer of the State only, and by order of the State. Although David Rittenhouse gave a bond to indemnify George Ross, yet that instant the State became

bound to indemnify David Rittenhouse, and the real party then interested was the Commonwealth of Pennsylvania. A treasury or other officer, retaining the public moneys upon any pretence whatever, cannot, upon any principle, change the nature of the question.

Notwithstanding, by the highest judicial authority the question is declared to be at rest, "That, by the decree of reversal, the interest of the State of Pennsylvania in the Active and her cargo was extinguished; that, although Mr. Rittenhouse was Treasurer of the State of Pennsylvania, and the bond of indemnity which he executed states the money to have been paid to him for the use of the State, it is apparent he held in his own right, until he should be completely indemnified by the State, and that the evidence to this point was conclusive; that it did not appear that the original certificates were deposited in the State Treasury, or in any manner designated as the property of the State, or delivered over to his successor; and, when funded, were funded in his own name, and the interest drawn by him. That the memorandum made by him, at the foot of the list of certificates, in these words: "The above certificates will be the property of the State of Pennsylvania when the State releases me from the bond I gave in 1778 to indemnify George Ross, Esq., Judge of the Admiralty, for paying the fifty original certificates into the treasury, as the State's share of the prize," demonstrates that he held the certificates as security against the bond he had executed, and that bond was obligatory not on the State of Pennsylvania, but on David Rittenhouse, in his private capacity.

This statement by the court, as part of the broad ground on which they decided, may be plausible, may give color to the decision, yet it by no means appears that he receives it as a stakeholder, or upon a contingency, but for the use of the State, as its share of the prize. And even upon his own memorandum, so much relied on, it is stated that the certificates were paid into the treasury as the State's share of the prize; and, as the State was bound to indemnify him when he acted under its orders, the State would have of course been the real party interested in any suit which might have been commenced upon it. It would seem that the court was not possessed of the whole state of the case, as will appear from the authority under which the treasurer acted; which proves explicitly how and in what character he acted. In the minutes of the Supreme Executive Council is the following resolution:

"PHILADELPHIA, April 21, 1779.

"Resolved, That David Rittenhouse, the Treasurer, be directed to find sufficient security to be approved of by the judge of the admiralty for the share adjudged to the State of the prize sloop Active, taken by the brigantine Convention and Gerard privateer; and take up the money, which will exceed eleven thousand pounds, for the use of the State, one-half of the sum allotted to the Convention coming to the State."

It here incontrovertibly appears that he did not

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receive the money as a private individual, but for the use of the State, by the orders of the Executive authority, and the bond which he executed was executed by him by the like authority, as agent and security for the State. Having thus received the money, previously the property of the State, by the decree of the Admiralty Court, as Treasurer, no detention of it when he went out of office ought in reason or principle to be considered as changing the nature of the original transaction. The Legislature, at their session, November 23d following, passed a resolution similar to that of the Executive Council; and the act of February 26, 1801, still further corroborates all the former proceedings of the State.

The Legislature are also of opinion that, as the brigantine Convention was the property of the State, as soon as judgment was pronounced upon the verdict of the jury, its interest attached upon its proportion of the prize, and as soon as it was received by the State Treasurer, it was so much belonging to the State actually in the treasury.

When it is said that the State of Pennsylvania forbore to assert its title while the suit was depending, let it be forever remembered that the State of Pennsylvania had no notice. And if notice had been given, to what purpose could she have asserted her title when by the high authority of the court it is declared that the court had nothing to do with the question decided by the Court of Appeals, which must be enforced without an examination of its merits.

Although the Legislature reverence the Constitution of the United States and its lawful authorities, yet there is a respect due to the solemn and public acts, and to the honor and dignity of our own State, and the unvarying assertion of her right for a period of thirty years, which right ought not to be relinquished; therefore,

Resolved, by the Senate and House of Representatives of the Commonwealth of Pennsylvania, &c. That, as a member of the Federal Union, the Legislature of Pennsylvania acknowledges the supremacy, and will cheerfully submit to the authority of the General Government as far as that authority is delegated by the Constitution of the United States. But whilst they yield to this authority, when exercised within Constitutional limits, they trust they will not be considered as acting hostile to the General Government, when, as the guardians of the State rights, they cannot permit an infringement of those rights by an unconstitutional exercise of power in the United States courts.

Resolved. That, in a Government like that of the United States, where there are powers granted to the General Government, and rights reserved to the States, it is impossible, from the imperfection of language, so to define the limits of each, that difficulties should not sometimes arise from a collision of powers; and it is to be lamented, that no provision is made in the Constitution for determining disputes between the General and State Governments by an impartial tribunal, when such cases occur.

Resolved, That, from the construction the Uni-

ted States' courts give to their powers, the harmony of the States, if they resist encroachments on their rights, will frequently be interrupted; and, if to prevent this evil, they should, on all occasions, yield to stretches of power, the reserved rights of the States will depend on the arbitrary power of the courts.

Resolved, That should the independence of the States, as secured by the Constitution, be destroyed, the liberties of the people in so extensive a country cannot long survive. To suffer the United States' courts to decide on State rights will, from a bias in favor of power, necessarily destroy the Federal part of our Government, and whenever the Government of the United States becomes consolidated, we may learn from the history of nations what will be the event.

To prevent the balance between the General and State Governments from being destroyed, and the harmony of the States from being interrupted,

Resolved, That our Senators in Congress be instructed, and our Representatives requested, to use their influence to procure an amendment to the Constitution of the United States, that an impartial tribunal may be established to determine disputes between the General and State Governments; and that they be further instructed to use their endeavors, that in the meanwhile such arrangements may be made between the Governments of the Union and of this State as will put an end to existing difficulties.

Resolved, That the Governor be requested to transmit a copy of these resolutions, together with the foregoing statement, to the Executive of the United States, to be laid before Congress at their next session. And that he be authorized and directed to correspond with the President on the subject in controversy, and to agree to such arrangements as may be in the power of the Executive to make, or that Congress may make, either by the appointment of Commissioners or otherwise, for settling the difficulties between the two Governments.

Resolved, That the Governor be also requested to transmit a copy to the Executives of the several States in the Union, with a request that they may be laid before their respective Legislatures.

JAMES INGLE,

Speaker of the House.

P. C. LANE,

Speaker of the Senate.

Approved, April 3, 1809.

SIMON SNYDER,

Governor of Pennsylvania.

[Communicated to the Senate, Dec. 19, 1809.]

To the Senate of the United States:

Agreeably to the request in the resolution of the 15th instant, I transmit a copy of the correspondence with the Governor of Pennsylvania, in the case of Gideon Olmstead.

JAMES MADISON.

DECEMBER 16, 1809.

Case of Gideon Olmstead.

LANCASTER, April 6, 1809.

SIR: In discharge of a legislative injunction, I transmit you the proceedings of the General Assembly, on the long-litigated cause of Gideon Olmstead and others *versus* Elizabeth Sergeant and Esther Waters, executrixes of David Rittenhouse, deceased, late Treasurer of Pennsylvania. Believing it will tend to a more perfect understanding of the subject, I take the liberty to add a copy of an act of the General Assembly relative thereto, passed the 4th instant, and also beg leave to refer you to two other acts, the one passed February 1st, 1801, and the other April 2d, 1803.

While I deeply deplore the circumstance which has led to this correspondence, I am consoled with the pleasing idea, that the Chief Magistracy of the Union is confided to a man who merits, and who possesses so great a portion of the esteem and the confidence of a vast majority of the citizens of the United States; who is so intimately acquainted with the principles of the Federal Constitution, and who is no less disposed to protect the sovereignty and independence of the several States, as guarantied to them, than to defend the rights and legitimate powers of the General Government; who will justly discriminate between opposition to the Constitution and laws of the United States, and that of resisting the decree of a judge, founded, as it is conceived, in a usurpation of power and jurisdiction not delegated to him by either; and who is equally solicitous with myself, to preserve the Union of the States, and to adjust the present unhappy collision of the two Governments in such a manner as will be equally honorable to them both.

Permit me to add in addition to the act I have done as the Chief Magistrate of the State of Pennsylvania, to assure you, sir, as an individual, of my full confidence in the wisdom, justice, and integrity of the present Administration of the General Government, and my fixed determination, in my public, as well as in my private capacity, to support it in all Constitutional measures it may adopt.

With the highest consideration, I am, sir, your obedient servant.

SIMON SNYDER.

His Exc'y the PRESIDENT OF THE U. S.

An Act relative to certain proceedings in the case of the prize sloop *Active*.

Whereas, by an act of the General Assembly of this Commonwealth, passed the second day of April, in the year of our Lord 1803, entitled "An act relating to the claim of this Commonwealth against Elizabeth Sergeant and Esther Waters, surviving executrixes of David Rittenhouse, Esquire, deceased," the right of this Commonwealth was asserted to certain moneys which the said executrixes of David Rittenhouse, heretofore Treasurer of the Commonwealth of Pennsylvania, admitted to have been received by them in the manner in the same act particularly set

forth, as part of the proceeds of a certain prize called the "*Active*," captured during the Revolutionary war, and provision was made among other things, that if, in pursuance of the requisition of the said act, (the decree of the district court of Pennsylvania, in the said act mentioned, to the contrary notwithstanding,) the said executrixes should pay the said moneys into the Treasury of the Commonwealth without suit brought against them to compel such payment, they should be indemnified for so doing. And whereas the Supreme Court of the United States have reviewed the proceedings of the said district court of Pennsylvania, and have adjudged that the decree thereof ought to be enforced, notwithstanding the claim of the Commonwealth, and the payment of the said moneys into the treasury thereof, as aforesaid: and whereas the good faith of this Commonwealth requires that the said engagement of indemnity should be effectually performed: and whereas sundry unforeseen difficulties may arise in protecting the just rights of the State, which ought to be provided for before the adjournment of the Legislature; and as the Legislature, by their resolutions during the present session, have enjoined certain duties on the Governor, touching the premises, and it is expedient to make such appropriations as shall meet every contingency; but, protesting that nothing in this act contained shall be deemed or taken as a dereliction of any right or principle heretofore asserted on behalf of the Commonwealth. And it is, moreover, the duty of the Legislature to protect all good citizens from losses or injury in their property or persons, by reason of their obedience to the laws and constituted authorities of the Commonwealth. Therefore,

SEC. 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That a sum not exceeding \$18,000 be, and the same is hereby, appropriated and made subject to the orders of the Governor on the State Treasurer, to enable the Governor to carry into effect all and every engagement of this Commonwealth, touching the premises, in such manner as may appear to him to be advisable, just, and proper, and to meet all contingent expenses which may arise in the execution of any authority or power given to or enjoined on him by the resolutions of this Legislature, passed April 3, 1809, or by the act of Assembly of April 2, 1803. And also to protect all and every person or persons in any way concerned in the protection of the just rights of the Commonwealth, in obedience to the injunctions of any law or authority derived therefrom.*

JAMES INGLE,
Speaker of the House of Reps.

P. C. LANE,
Speaker of the Senate.

Approved, April 4, 1809.

SIMON SNYDER.

The Territory of Orleans.

WASHINGTON, April 13, 1809.

SIR: I have received your letter of the 6th instant, accompanied by certain acts of the Legislature of Pennsylvania, which will be laid before Congress according to the desire expressed.

Considering our respective relations to the subject of these communications, it would be unnecessary, if not improper, to enter into any examination of some of the questions connected with it. It is sufficient, in the actual posture of the case, to remark, that the Executive of the United States is not only unauthorized to prevent the execution of a decree sanctioned by the Supreme Court of the United States, but is expressly enjoined, by statute, to carry into effect any such decree where opposition may be made to it.

It is a propitious circumstance, therefore, that whilst no legal discretion lies with the Executive of the United States to decline steps which might lead to a very painful issue, a provision has been made by the legislative act transmitted by you, adequate to a removal of the existing difficulty, and I feel great pleasure in assuring myself that the authority which it gives will be exercised in a spirit corresponding with the patriotic character of the State over which you preside.

Be pleased, sir, to accept assurances of my respectful consideration.

JAMES MADISON.

His Excellency Gov. SNYDER.

THE TERRITORY OF ORLEANS.

[Communicated to the Senate, March 12, 1810.]

To the Senate and House of Representatives of the United States:

The inhabitants of the Territory of Orleans, become your countrymen by a combination of political events, but as satisfied with the title of citizens of the United States as if they had acquired it from choice, raise up to you, through the organ of their Representatives, their respectful remonstrances on the inconveniences which, no doubt against your intentions, have been the inevitable consequences of the system of government which you have given them. They appear before your honorable assembly, full of confidence in your justice, not to vent any complaints, but to claim their rights. They bring you not testimony of their discontent, but the expression of their wishes and of their hopes; and they pray you, before you listen to their representations, to accept the homage of the fidelity which they again swear to the Constitution of the United States, and the tribute of admiration which they pay to that sacred charter where the true principles of liberty are recorded in indelible characters. After this solemn protestation of their sentiments, they entreat you to lend an attentive ear to the object which they are going to submit to your consideration. Its importance claims that it interests the fate of a great number of men,

whose happiness you have contracted the obligation to procure when you adopted them for your fellow-citizens.

A considerable portion of the inhabitants of this Territory thought, some years ago, that they had a right to solicit the incorporation of this country into the Union. They founded their claims on the stipulations of the treaty of April, 1803, and demanded that this Territory should be erected into a State, not so much because of the utility of the measure, than because they considered it as secured by the treaty.

Things are now materially altered. The Legislature of this Territory came forward several years after to solicit that incorporation, not so much as a right than as a favor. Whatever may have been the political considerations which induced your honorable body to reject the application which was made to you in 1804, those reasons exist no longer. The loyalty of the whole population of this Territory has since then been put to the trial in circumstances sufficiently critical for you to be now convinced that the inhabitants of Lower Louisiana are not undeserving the confidence of the Federal Government. The devoted spirit of our militia, when war with Spain was on the eve of breaking out, our unshaken fidelity, in the midst of treasons and conspiracies, are irrefragable proofs of the incorruptibility of our honor, and of the sincerity of our affection to our common country.

But not only there is no longer any reason to oppose the wish of the citizens of this Territory, there exists powerful motives to induce your honorable assembly to see it in a favorable point of view. The system of government which you have given them, because you thought it would be convenient, does not suit either their physical nor their political situation. To use the expressions of the person who is at the head of our Executive, when speaking of a particular branch of our Government: "The ordinance of 1787, originally intended for a small agricultural society, was of hazardous experiment in a Territory like ours, populous, wealthy, and commercial, where the landed property is holden by titles so various and complex, and where the principles of the common and civil law, the statutes of the United States, and the municipal regulations of France and of Spain," mingle together to render the administration of our affairs more complicated and more embarrassing. Since the introduction of that ordinance, a sad experience has shown us its imperfection and insufficiency. As we have been endeavoring to conciliate it with our wants and our localities, the difficulties multiplied themselves so much, that we now think it impossible to establish harmony amidst the incoherent materials of which our present Government is composed.

We live, however, at the distance of six hundred leagues from your honorable assembly, who gave us those laws, and who alone has the right of remedying the evils which they may have created. Convened, moreover, for the general good of the Union, occupied with great politica

The Territory of Orleans.

subjects, on which depends the safety of the whole nation. you cannot, nay, you ought not, to stoop to the details of our local administration; and although you should consent to enter into the examination of those details, you are not sufficiently acquainted with our situation to have it in your power to ameliorate it.

Such were undoubtedly the reasons which determined your honorable body to give us an elective Legislature. You thought that, by granting us the privilege of making our own laws, you furnished us with the means of securing our happiness. No doubt, legislators, such were your benevolent intentions. But how far that institution fell short of the end for which it was established! From the bosom of that ordinance, which you had given us as a favor, inconveniences and difficulties have sprung which made our situation worse than it was before.

In almost all the measures which we attempt to take for the amelioration of the government of the Territory, the provisions of the ordinance shackle our efforts. It would be preposterous to entertain your honorable assembly with the particulars that form the mass of our grievances, and to conduct you through the windings of the labyrinths of our administration. Higher objects call your attention, and bid us to spare the precious time which you are bound to employ for the general good of the nation. But without tiring your patience with useless details, if you will deign to cast an eye on the most striking inconveniences of our present situation, you will be forced to acknowledge the necessity of granting to us more extensive powers wherewith to clear our way amidst the innumerable difficulties which reiterated changes of government have heaped around us.

The absolute veto of the Executive; a Judiciary placed above the authority of the Legislature; provisions only obscure, sometimes contradictory, which furnish individuals whose private interests are in opposition to the public welfare, with the means of creating doubts upon the most important subjects; powers and functions imperfectly defined; a complicated jurisprudence; an entangled chicane, in the vortex of which our business and fortunes are precipitated; public officers who often have no idea of our municipal laws, and do not understand the language of the great majority of our population; no voice in their election; no check on their conduct; no confidence, no harmony; such is, legislators, the present state of government in the Territory of Orleans. It would even be more grievous if the Chief of our executive, to whom we owe this public testimony of our acknowledgment, had not united his efforts to ours to better our situation.

But the palliative measures to which we recur offer little resistance to the torrent of disorder which flows from our Constitution itself. The only efficacious means to employ is to drain the source of the evil, by changing entirely the actual system of our government.

That remedy, legislators, is in your hands. No constitutional obstacle prevents you from using

it. The condition which you have put to our admission into the Union, that of waiting until the Territory should possess sixty thousand inhabitants, can be repealed by the same authority which has imposed it. It does not emanate from the Constitution of the United States, it emanates from your will. If you think the emancipation of this Territory to be a necessary measure because of the physical and of the political situation of this country; because of its remoteness from the seat of the Federal Government, where we are now obliged to apply even for the details of our local administration; because of the confusion into which that administration has been plunged by the successive changes which it has experienced; if you think that emancipation to be a salutary measure, as tending to bind more closely to the interests of the Union a population already known by their loyalty; if you think that emancipation to be a just measure as the recompense of the irreproachable conduct which that population has pursued in critical and tempestuous times; nothing can, nay, nothing ought, to prevent you from pronouncing the decree which we solicit.

In vain would it be objected that our demand is premature; that our population does not yet amount to sixty thousand free inhabitants, as is required by the ordinance of 1787, originally made for the Territory Northwest of the Ohio. The articles of compact, which are included in that ordinance, cannot be considered as obligatory on us, since we stipulated, approved, accepted nothing; and the ordinance, with regard to us, is a law like the others, emanating solely from your will. If those articles are obligatory on your part, they can be so only as containing an engagement not to retard our incorporation into the Union beyond the epoch when our population shall amount to sixty thousand inhabitants; but by contracting the obligation, not to deprive us of certain advantages, you did not part with your right of granting to us further favors.

Such was your consideration of the subject, even with respect to those who were considered as contracting parties in the ordinance of 1787, when you erected, in 1802, the Territory of Ohio into a State, long before it possessed the number of inhabitants required by the ordinance.

But although the law which you have established over us can be revoked by the same power that has dictated it, if through respect for ancient institutions, if through attachment for a plan of government which was successively applied to your several Territories, you should persist in requiring, as a condition of our incorporation, that our population should amount to sixty thousand free inhabitants, then we might abandon the hope ever to see the change which is the object of our wishes. Our Territory, though vast, cannot admit of any large increase of population. Nearly all the lands conveniently situated are occupied; immense swamps cover a great proportion of the remaining part of the country, and such uninhabited lands as are cultivable are chiefly to be found towards the limits of our Territory. Such a situ-

Boundary between North Carolina and Georgia.

ation threatens, therefore, at least the present generation, never to see the epoch of their emancipation, if your honorable assembly should not yield to the powerful reasons which now make it convenient, or rather necessary.

Must we add, to what has been above represented, that we are capable of appreciating the advantages of the Government which we pray you to extend to us? Do you suppose it possible that we should have enjoyed during several years a portion of that precious liberty which you alone have preserved, amidst the subjection of all the civilized nations, and that we should not wish to possess it entirely? Do you doubt that we would receive with transport the favor which we solicit from your liberality and your justice? And do you hesitate to believe that, once in possession of our independence, it shall not be wrested from us but with our lives? No, legislators, your reason must persuade you that the emancipation of the Territory of Orleans is ardently desired by its inhabitants; and your heart must tell you that, by extending independence to them, you will forever secure their friendship and their devotion.

THOMAS URQUHART,
Speaker House of Representatives.
J. D. D. BELLECHASSE,
President of the Legislative Council.

Attest: E. FROMENTIN,
Clerk to the House of Representatives.

Attest: P. DERBIGNY,
Secretary to the Legislative Council.

BOUNDARY BETWEEN GEORGIA AND
NORTH CAROLINA.

[Communicated to the House, April 26, 1810.]

IN SENATE, November 18, 1809.

To the President and gentlemen of the Senate, and to the Speaker and gentlemen of the House of Representatives in Congress assembled:

The State of Georgia, by her convention with the United States bearing date the 24th day of April, which was in the year 1802, for the cession of her western territory, having acquired a right to a certain tract of country, which was west of South Carolina, and separated the States of North Carolina and Georgia; and the Commissioners on the part of the United States having held forth to the Commissioners of Georgia on that occasion, this territory, as a strong and valuable part of the consideration offered by the United States for the completion of that convention:—

The State of Georgia sent her Surveyor General to ascertain the extent and quality of the territory she had thus acquired; he ascertained the boundaries to be at points that had long been supposed by South Carolina, and all the precedent claims to this tract of country; Georgia then proceeded, under the solemn convention she had entered into with the United States, to extend her laws and Government over the people

there resident, and she then, with astonishment, first heard that her claims were to be resisted by North Carolina, unless she would agree to sanction grants that had issued from the Government of that State, and which would swallow up the right of soil through the whole extent of country; the sanctioning of which would have overthrown her benevolent intentions to its resident inhabitants, and confirmed a system of speculation which it had been the effort of Georgia to weed out of the limits of her State.

The documents subjoined to this address (and marked No. 1) will confirm what is here advanced.

Georgia, disappointed in her application to North Carolina, then addressed herself to Congress on the subject; her Representatives abstained, however, from pressing the affair, on receiving assurances from the Delegation of the State of North Carolina that they would represent to their own State the necessity of meeting on some other grounds the requisition of Georgia.

In consequence of this application North Carolina did appoint Commissioners, who met Commissioners from Georgia. Some observations were made of the latitude of places, supposed about the boundaries of the two States. But because those observations were contrary to all that had been made before them; because they were directly against the opinions of persons best informed upon the subject, from neighboring States; because they were not confided in by the citizens claimed of Georgia, resident in the country; and, above all, because the observations made were themselves so variant (where a variation to such an extent was not to be expected) as to demonstrate that there was an error in the men employed, or in the instruments used:—

The Legislature of Georgia, from some or all of these reasons, refused her assent to the boundaries that would have been fixed by these observations, and again requested North Carolina to appoint Commissioners, that the doubts on the subject might be removed; that if Georgia had no just claim to a territory for which, by her convention with the United States, she had allowed a valuable consideration, she might have satisfactory and conclusive testimony. This application, though reiterated, has been rejected; this requisition, though pressed by the Government of Georgia to a wearisome length, has met with nothing but denial from her sister State, as the documents annexed to this memorial (and marked No. 2) will confirm.

The Legislature of Georgia now see but one mode of calming the irritations that have arisen between the two States on this subject; they, therefore, apply to the Government of the United States to appoint a proper person to run the dividing line between the two States, through the whole extent, either at the expense of the Union, as Georgia believes she has a right to demand, or, at the expense of the two States, if Congress should so insist.

Be it, therefore, resolved by the Senate and House of Representatives of the State of Georgia

Boundary between North Carolina and Georgia.

in General Assembly met, and by the authority of the same, That our Senators and Representatives in the Congress of the United States press upon the attention of the General Government the subject matter of the preceding memorial.

And be it further resolved, That His Excellency the Governor, transmit to our delegation in Congress the preceding memorial and resolution.

Read and passed.

H. MITCHELL, *Pres't.*,
Attest: W. ROBERTSON, *Sec'y.*

In the House of Representatives, read, and concurred in.

B. WHITAKER, *Speaker*,
Attest: H. HOLT, *Clerk*.

EXECUTIVE DEPARTMENT, GEORGIA,
December 15, 1809.

Presented, read, and approved.

D. B. MITCHELL, *Governor*,
Attest: E. EARLY, *Secretary*, E. D.

SECRETARY OF STATE'S OFFICE,
MILLEDGEVILLE, February 7, 1810.

I certify that the foregoing is a true copy of the original deposited in this office, with the great seal of the State affixed thereto.

H. MARBURY, *Sec'y of State*.

EXECUTIVE DEPARTMENT, GEORGIA,
LOUISVILLE, December 10, 1806.

SIR: Agreeably to a resolution of the General Assembly of this State, I do myself the honor to enclose to your Excellency copies of sundry resolutions, passed at their last session, relative to ascertaining the limits of this State. In conformity with one of the resolutions, the Legislature did, on the 5th instant, proceed to elect Commissioners on the part of this State, when it appeared that Thomas P. Carnes, Thomas Flournoy, and William Barnett, Esquires, were elected to ascertain the 35th degree of north latitude, and plainly to mark the dividing line between the States of North Carolina and Georgia.

I am, sir, very respectfully, &c.

JARED IRWIN.

His Exc'y the GOVERNOR of North Carolina.

EXECUTIVE DEPARTMENT,
RALEIGH, (N. C.), Jan. 1, 1807.

SIR: I have the honor to acknowledge the receipt of your Excellency's favor, dated the 10th of December last, accompanied with certain resolutions entered into by the Legislature of the State of Georgia, relative to the boundary line.

It was with satisfaction I saw that measures had been adopted that may, and no doubt will, lead to an amicable adjustment of our territorial differences.

Enclosed you will receive the copy of a law passed by the Legislature of North Carolina at its last session; by adverting to it you will observe that the objectionable parts of the former law are removed; thus it is expected that no difficulty can result in determining the equitable claims of the two States by their conferees.

On inquiry, I find the country in the neighborhood of the boundary is thinly inhabited, and that it is hardly probable that the Commissioners can be comfortably accommodated in its vicinity during their negotiations. Permit me, therefore, to propose Buncombe court-house, in this State, as a suitable place, for the meeting of the Commissioners, and that the same should take place on the 20th of April next. If, however, neither the time nor place should meet with your approbation, please to alter them so as to make it agreeable to the Commissioners on the part of Georgia, as no difficulty shall arise on this head, as the Commissioners on the part of this State are disposed to accede to any proposition in this respect that you should be pleased to make.

The Commissioners appointed by this State on the subject of boundary are Messrs. John Steele, John Moore, and James Willborn.

You will please to inform me by the earliest opportunity what arrangement you have thought proper to make on this important business.

With high consideration and respect. &c.

NATH'L ALEXANDER.

His Exc'y the GOVERNOR of Georgia.

EXECUTIVE DEPARTMENT,
LOUISVILLE, (Ga.), March 11, 1807.

SIR: Immediately upon the receipt of your letter of the 1st of January last, I wrote the Commissioners, on the part of this State, and informed them of the time and place proposed by your Excellency for the Commissioners on the part of both States to meet at and adjust our differences respecting boundary; to which I received their answers on the 27th ultimo, wherein they informed me that they will be at the place appointed by you on the 15th of June next, of which you will please to notify the Commissioners on the part of the State over which you preside.

I have the honor to be, &c.

JARED IRWIN.

His Exc'y the GOVERNOR of North Carolina.

EXECUTIVE DEPARTMENT,
RALEIGH, (N. C.), March 25, 1807.

SIR: It is with pleasure I acknowledge the receipt of your letter dated the 11th instant, in answer to mine dated the 1st of January last, on the subject of boundary. I do not hesitate to say that the time proposed will be considered agreeable to the Commissioners of this State; I shall accordingly instruct them to proceed to Buncombe court-house, within this State, to be there on the 15th of June next, as proposed, prepared to enter upon the duties of their appointment. On the 14th day of the present month, I had the honor of addressing a letter to you, wherein I declined a meeting of the Commissioners on the 28th of April next as proposed, for the want of time to make the necessary arrangements, as I had not heard from you, but your last communication has obviated all difficulty, I hope.

I have, &c.

N. ALEXANDER.

His Exc'y JARED IRWIN, Governor of Georgia.

Boundary between North Carolina and Georgia.

JULY 25, 1807.

We, the undersigned, a majority of the Commissioners appointed to ascertain the thirty-fifth degree of north latitude, and on that parallel to run and plainly mark the boundary line between the States of Georgia and North Carolina, respectfully report:

That, in pursuance of the power and authority in us vested, we proceeded to Buncombe courthouse, in the State of North Carolina, and there, on the 15th day of June, (as previously agreed on,) we were met by Generals John Steele, John Moore, and James Willborn, accompanied by their artist, the Reverend Joseph Caldwell. The day after our meeting a board was formed, and the business of our mission was entered into, after exchanging and re-exchanging credentials, and being satisfied that the powers given to the Commissioners by each State were sufficiently ample. It was then proposed by the Commissioners, on the part of North Carolina, that some previous arrangements ought to take place relative to the claimants, under patents from the State of North Carolina, so far as they covered land which might be found to be within the limits of the State of Georgia, on our ascertaining the line; and that, so far as the Commissioners were competent, an amnesty for all disorders and offences (under the degree of capital) heretofore committed within the county of Walton should be agreed on. On these subjects it was thought expedient to reduce to writing the sense of the Commissioners, which was accordingly done in the form of articles, which is herewith transmitted, and distinguished by No. 1.

It will be perceived, by the tenor of this instrument, that the Commissioners on the part of North Carolina, entertained no manner of doubt but that the line of demarcation between the two States would be found in the neighborhood of the place where preceding astronomical observations had fixed it. It was then proposed and agreed to, that the Commissioners should forthwith proceed to the house of a Mr. Justice, living on the route from Ashville to the Blue ridge, and about three miles from that part of the ridge where the Kentucky road from South Carolina crosses the same.

On our arrival at this place, an artificial horizon was prepared, under the direction and superintendence of Mr. Meigs, on the part of Georgia, and Mr. Caldwell, on the part of North Carolina. The result of their observations, as reported to the Commissioners, will be found on the journal herewith transmitted, marked with the letter A. Taking the mean difference it is found that Justice's is on latitude, north $35^{\circ} 22' 32'' 20'''$. We take leave to state, that when the report of this first observation made at Justice's, was received, our astonishment and disappointment were great in the extreme. We who had been taught to believe, from preceding calculations, and those made under the authority of our Government, and by a person whose public station obliged us to believe that a scientific fault could not be at-

tributed to him, had the most abundant reason to be astonished and mortified at the result of this first attempt, which made a difference, and varied from the preceding observations, twenty miles or upward. The case was the more perplexing and unaccountable, when we reflected that all the observations, both by the Surveyor General of this State, and the present artists, were made by the same kind of instruments, and such as have become proverbial for their verity and accuracy. We were, however, accompanied by an artist appointed by the Government, whose talents and integrity we had no reason to doubt, and of course were under the necessity of suspending our astonishment, and proceeding on the duty assigned us. After his observation was made, and reported, which was on Sunday, the 21st day of June, making the mean difference, as above stated, we proceeded about fifteen miles west to a Mr. Lane's, near the mouths of Davidson's and Little rivers, where Mr. Sturges ascertained the thirty-fifth degree of north latitude to be. At this place, on the 22d June, great pains were taken to construct an artificial horizon, with which each of the astronomers expressed themselves satisfied. On taking the latitude of this place, the report stands thus:

North Carolina	-	-	-	-	35	17	6	93
Georgia	-	-	-	-	35	18	10	22

After finding, from the foregoing observation, that we were upward of seventeen minutes north of the desired point, we agreed to proceed to Cæsar's head, a place on the Blue ridge, about twelve horizontal miles directly south, and in the vicinity of Dowthet's Gap. It was stated by those persons present, who were said to be best informed, that this was the most southern point to be found on the Blue ridge within the present boundary line, and that here a natural and smooth horizon might be commanded, which situation was stated by the attendant astronomers to be all important. On our arrival at this place, within one hundred yards of the summit of the Blue ridge, the astronomers, after having viewed the heights, verbally stated that an artificial horizon was again to be resorted to, alleging that the view of the natural horizon from the mountain was too distant and remote to be depended on: whether this was a sound reason for abandoning a natural, and resorting to an artificial horizon, we leave to others better skilled in this important science than ourselves to determine. We can now only say, what we then said, that the reason offered for relinquishing a natural horizon, and embracing an artificial one, did not appear to us satisfactory. An artificial horizon was then constructed in view of our camp; on the 24th of June observations were taken and produced the following result:

Georgia	-	-	-	-	35	11	1	0
North Carolina	-	-	-	-	35	9	15	21

On the 26th June (the 25th being cloudy) the observations were:

Boundary between North Carolina and Georgia.

Georgia	-	-	-	-	35	6	20	24
North Carolina	-	-	-	-	35	7	21	11
And, on the 28th June, which was the last observation:								
Georgia makes the latitude	-	-	-	-	35	02	57	56
North Carolina	-	-	-	-	35	04	54	04

This last observation (on the 28th) was made under very unfavorable circumstances, as the clouds obscured the sun about the time he was on the meridian, in such a degree that only an imperfect glimpse could be obtained.

The Commissioners on the part of each State believing, from the observations made and reported by the attendant artists, that the thirty-fifth degree of north latitude could not be found on the summit or to the north of the most southern point of the Blue ridge, agreed to and signed certain articles of agreement, which are called articles supplementary to those entered into at Asheville, to which we beg leave to refer.

The reports of the astronomers, on the part of each State, are herewith transmitted.

Mr. Secretary Robinson is in the possession of the journal of our proceedings, from the time of our meeting at Greenville until the close of our mission, together with a statement of expenditures, and the necessary vouchers, all which he is directed to lay before your Excellency on his return to the seat of Government.

We have the honor to be, &c.

THOMAS P. CARNES,
WILLIAM BARNETT.

His Exc'y JARED IRWIN, *Governor of Georgia.*

The Commissioners, on the part of the States of Georgia and North Carolina, having freely exchanged ideas on the subject of their mission, and believing that every measure ought to be pursued which would bear the stamp of conciliation and good will, have agreed to the following articles:

ARTICLE 1. It is mutually agreed and admitted that the territories of the said States of Georgia and North Carolina, as far as they adjoin each other, are, and of right ought to be, separated and bounded by the thirty-fifth degree of north latitude, and for the purpose of preventing in future all manner of dissensions concerning jurisdiction, the underwritten Commissioners will proceed forthwith to ascertain the said thirty-fifth degree of north latitude, and to run and mark the line accordingly; which line, when ascertained and completed with joint concurrence, shall forever after be regarded as the line of separation and boundary between the two States.

ART. 2. The Commissioners on the part of Georgia do not consider their powers competent to enter into any stipulations which would bind the government of the said State to confirm entries or grants for land heretofore made or obtained under the authority of the State of North Carolina, which land, on the running of the line, may be found to be within the State of Georgia; but impressed with the justice of a certain por-

portion of the said claims, and the peculiar circumstances which entitle them to consideration, the said Commissioners promise and agree to recommend them in a special manner to the liberality of their government, not doubting but that the Legislature thereof will by law provide for the confirmation and establishment of the said titles in a manner which will afford a satisfactory and adequate relief; and to this end the said Commissioners will recommend the establishment of an impartial tribunal for the special purpose of inquiring into, and ascertaining the various descriptions of such claims, and of determining on each, according to their respective merits, and as reason and equity may require, which tribunal, the said Commissioners will also recommend, to be composed of three persons, to be appointed and paid by each State; but they shall convene and hold their meetings in the State of Georgia, and their decisions shall be conclusive.

ART. 3. There having been great dissensions between the people resident in the neighboring counties of Buncombe and Walton, and the said dissensions having produced many riots, routs, affrays, assaults, batteries, trespasses, woundings, and imprisonments, as well on one side as on the other, and it being of primary importance that peace and tranquillity should be restored, and all animosity and ill-will forever buried between people who, from their local situations, will, in all probability, be constrained to continue in the vicinity of each other; and as the several outrages committed on both sides proceeded more (as the undersigned are impressed) from a mistaken zeal to support the Government to which they thought themselves constitutionally bound, than from a wish to injure their neighbors, or disturb the public peace, the undersigned agree to recommend, in the most earnest manner, to the Legislatures of their respective States to pass laws of amnesty, forgiveness, and oblivion, for all such offences (under the degree of capital) as may have been committed within the said counties of Buncombe and Walton, respectively, subsequent to the 10th day of December, in the year 1803, and which shall have arisen from, and had relation to, the disputes which existed concerning the jurisdiction of the two States.

In testimony whereof, we have hereunto set our hands and affixed our seals, as Commissioners of our respective States, at Buncombe court-house, in the State of North Carolina, the 18th day of June, in the year 1807.

JOHN STEELE,	[L. s.]
THOMAS P. CARNES,	[L. s.]
JOHN MOORE,	[L. s.]
WM. BARNETT,	[L. s.]
JAMES WILLBORN.	[L. s.]

Signed, sealed, and interchangeably delivered, by the Commissioners of the two States, in presence of us, who have hereunto subscribed as witnesses.

Witnesses: James Call, Wm. Robertson, Joseph Caldwell, J. Meigs.

Boundary between North Carolina and Georgia.

The Commissioners of the States of Georgia and North Carolina having discovered, by repeated astronomical observations made on the Blue ridge and elsewhere, that the thirty-fifth degree of north latitude is not to be found on any part of the said ridge of mountains, east of the line established by the General Government, as the temporary boundary between the white people and the Indians, and having no authority to proceed over that boundary for the purpose of ascertaining the said thirty-fifth degree of north latitude, and of running and marking the line accordingly: and being desirous that all causes of collision or irritation between the jurisdictions and people of the two States, may be effectually and completely prevented, have agreed to the following articles in addition and supplementary to the convention agreed to at Buncombe courthouse, on the 18th day of the present month, viz:

ART. 1. The Commissioners of Georgia, for and on the part of their State, acknowledge and admit, which acknowledgment and admission are founded on the aforesaid astronomical observations, that the State of Georgia hath no claim to the soil or jurisdiction of any part of the territory northwest of the ridge of mountains which divides the eastern from the western waters, commonly called the Blue ridge, and east or south of the present temporary boundary line between the white people and the Indians.

And that they will, consequently, recommend to the Legislature of the State of Georgia to repeal, at their next ensuing session, the act to establish the county of Walton, and to abrogate and to annul all Executive, Ministerial, or other proceedings for the organization thereof.

ART. 2. The Commissioners, on the part of the State of North Carolina, promise and agree to recommend to their Government, and particularly to the magistrates, sheriffs, and other officers, civil and military, in the county of Buncombe, to execute the laws concerning forfeitures and penalties, and in every other respect where the State may be concerned, (under the degree of felony,) upon and towards the people who have adhered to the State of Georgia in the late dissensions concerning jurisdictions, with mildness and clemency, and if the said officers can do it consistently with their obligations of official duty, that they forbear to institute suits, and to distrain or execute for forfeitures and penalties incurred as aforesaid, between the 10th day of December, in the year 1803, and the date of this agreement, until the sense of the Legislature shall be had and known thereon.

In testimony whereof, we have hereunto set our hands and affixed our seals, as Commissioners of our respective States, near Dowthet's Gap, on the summit of the Blue ridge, the twenty-seventh day of June, in the year one thousand eight hundred and seven.

JOHN STEELE,
T. P. CARNES,
JOHN MOORE,
WILLIAM BARNETT,
JAMES WILLBORN.

Signed, sealed, and interchangeably delivered, by the Commissioners of the two States, in presence of us, who have subscribed hereunto as witnesses.

Witnesses:

J. MEIGS,
JOSEPH CALDWELL,
WM. ROBERTSON,
AMOS JUSTICE.

A.

At Mr. JUSTICE's,
Saturday, June 20, 1807.

We have had but one satisfactory observation, which we made this day. The result of an average or mean, is, that we are in the latitude of thirty-five degrees, twenty-two minutes, thirty-two seconds and twenty thirds, north, viz: 35° 22' 32" 20'''

We are confident that it will be advisable for the Commissioners to proceed to a station further southward, that we may be able to perform with satisfaction to ourselves the duty assigned to us.

J. MEIGS,
J. CALDWELL.

To the COMMISSIONERS, &c.

At Mr. LANE's,
Monday, June 22, 1807.

GENTLEMEN: We agree that the circumstances attending our astronomical observation this day have been as favorable as we have a right to expect in any case where the principles of Hadley's quadrant, or the sextant, constitute the first object, and we find the latitude to be thus: viz:

The astronomer, on the part of North Carolina, makes the latitude to be thirty-five degrees, seventeen minutes, six seconds, and ninety-three thirds. And the astronomer, on the part of Georgia, makes the latitude thirty-five degrees, eighteen minutes, ten seconds, and twenty-two thirds.

	°	'	"	'''
North Carolina	-	-	-	-
Georgia	-	-	-	-

35 17 6 93
35 18 10 22

All which is respectfully submitted.

J. MEIGS,
J. CALDWELL.

To the COMMISSIONERS, &c.

NEAR DOWTHET'S GAP, BLUE RIDGE,
June 24, 1807.

GENTLEMEN: The circumstances attending our astronomical observation this day have not been so favorable as we wished; however, we had a glimpse of the sun at or very near his meridian altitude.

The result is as follows, viz:

Georgia gives the latitude to be thirty-five degrees, eleven minutes, and one second north.

North Carolina gives the latitude thirty-five degrees, nine minutes, fifteen seconds, and twenty-one thirds, viz:

Boundary between North Carolina and Georgia.

	°	'	"	'''
Georgia - - - -	35	11	1	0
North Carolina - - - -	35	9	15	21

All which is respectfully submitted.

J. CALDWELL,
J. MEIGS.

To the COMMISSIONERS, &c.

NEAR DOWTHET'S GAP, *June 26, 1807.*

GENTLEMEN: We had but a momentary view of the sun when on the meridian yesterday, as the result of which we state the latitude to be thus, viz:

Georgia makes it thirty-five degrees, six minutes, twenty seconds, and twenty-four thirds.

North Carolina makes it thirty five degrees, seven minutes, twenty-one seconds, and eleven thirds.

	°	'	"	'''
Georgia - - - -	35	6	20	24
North Carolina - - - -	35	7	21	11

All which is respectfully submitted.

J. MEIGS,
J. CALDWELL.

To the COMMISSIONERS, &c.

DOWTHET'S GAP, *June 28, 1807.*

To the Commissioners of North Carolina and Georgia, for ascertaining the boundary line between the two States. The artists acting for them report:

That, by observation made this day, which each pronounce to be exceedingly uncertain, on account of cloudy weather, the artist, on the part of Georgia, has found the latitude of this place to be thirty-five degrees, two minutes, fifty-seven seconds, and fifty-six thirds; and the artist, on the part of North Carolina, has found the latitude to be thirty-five degrees, four minutes, fifty-four seconds, and four-thirds.

	°	'	"	'''
Georgia - - - -	35	2	57	56
North Carolina - - - -	35	4	54	4

All which is respectfully submitted.

J. MEIGS,
J. CALDWELL.

EXECUTIVE DEPARTMENT,
Milledgeville, Dec. 28, 1808.

SIR: The Legislature of this State, at their last session, passed a resolution requesting me to write your Excellency, and to urge the necessity of your appointing Commissioners to meet those appointed last Winter, on the part of this State, to ascertain the thirty-fifth degree of north latitude, and to mark the dividing line between the two States.

Permit me to request your Excellency's attention to this business as early as possible.

I have the honor to be, sir, your Excellency's most obedient servant,

JARED IRWIN.

His Exc'y the GOVERNOR of *N. Carolina.*

NORTH CAROLINA,
Raleigh, March 21, 1809.

SIR: I am sorry a temporary absence from this place has prevented my answering sooner your favor of the 28th of December last.

It would afford me real gratification to contribute to the friendly adjustment of those differences on the subject of boundary, which have for some time unhappily subsisted between the two States.

As intimated by my predecessor, Governor Williams, in his letter of the 10th of July last, in answer to yours of the 17th of March, and 9th of June, 1808, your letters, with the resolutions of the State of Georgia, sent with the first, were, by him, laid before our Legislature at their late session, who resolved to concur in the report of a committee thereon, of which I send you a copy, enclosed, as also copies of two acts passed at the session preceding upon the same subject. From them you will perceive that the Legislature of this State consider the subject of difference as solemnly adjusted. Indeed, it does not readily occur on what basis the adjustment is to rest, if not upon that where it now stands.

The plighted faith of the two States to abide by the determination of Commissioners, mutually chosen for the purpose of making the adjustment, and the adjustment of those Commissioners actually made, I cannot, therefore, consistently with my sense of duty, make the appointments urged in your letter of December last.

I have the honor to be &c.

DAVID STONE.

His Exc'y the GOVERNOR of *Georgia.*

EXECUTIVE DEPARTMENT, GEORGIA,
MILLEDGEVILLE, March 16, 1809.

SIR: I wrote you on the 28th of December last, requesting your Excellency to inform me whether you intended to send Commissioners on the part of North Carolina, to meet those appointed on the part of this State, to ascertain the thirty-fifth degree of north latitude, and to mark the dividing line between the two States, to which I have not been favored with an answer. Permit me again to urge the necessity of having the line permanently fixed. The unhappy situation of the inhabitants of that tract of country, called Walton county, calls aloud for an adjustment of the existing difference between the two States relative to boundary.

I have the honor to be, &c.

JARED IRWIN.

His Exc'y the GOVERNOR of *North Carolina.*

STATE OF NORTH CAROLINA,
RALEIGH, April 19, 1809.

SIR: your Excellency's letter of the 28th of December last was answered on the 21st of last month, and I regret very much it had not been in my power to pay earlier attention to the subject; presuming that my answer abovementioned has been received, I shall at present beg leave to

Boundary between North Carolina and Georgia.

refer to that as an answer, also to your favor of the 16th of March.

I have the honor to be, &c.

DAVID STONE.

His Exc'y the GOVERNOR of Georgia.

Whereas the States of Georgia and North Carolina, by their respective Commissioners duly authorized for that purpose, did, on the 18th day of June, in the year of our Lord one thousand eight hundred and seven, at Buncombe court-house, enter into articles of conventional agreement, as follows:

ART. 1. It is mutually agreed and admitted, that the territories of the said States of Georgia and North Carolina, as far as they adjoin each other, are and of right ought to be separated, and bounded by the thirty-fifth degree of north latitude; and, for the purpose of preventing in future all manner of dissensions concerning jurisdiction, the underwritten Commissioners will proceed forthwith to ascertain the said thirty-fifth degree of north latitude, and to run and mark the line accordingly; which line, when ascertained and completed with joint concurrence, shall forever after be regarded as the line of separation and boundary between the two States.

ART. 2. The Commissioners, on the part of Georgia, do not consider their powers competent to enter into any stipulations which would bind the Government of the said States to confirm entries or grants for land heretofore made or obtained under the authority of the State of North Carolina, which land, on the running of the line, may be found to be within the State of Georgia; but, impressed with the justice of a certain proportion of the said claims, and the peculiar circumstances which entitle them to consideration, the said Commissioners promise and agree to recommend them in a special manner to the liberality of the Government, not doubting but that the Legislature thereof will, by law, provide for the confirmation and establishment of the said titles in a manner which will afford a satisfactory and adequate relief; and to this end the said Commissioners will recommend the establishment of an impartial tribunal for the special purpose of inquiring into, and ascertaining the various descriptions of such claims, and of determining on each, according to their respective merits, and as reason and equity may require; which tribunal the said Commissioners will also recommend to be composed of three persons, to be appointed and paid by each State; but they shall convene and hold their meetings in the State of Georgia, and their decisions shall be conclusive.

ART. 3. There having been great dissensions between the people resident in the neighboring counties of Buncombe and Walton, and the said dissensions having produced many riots, routs, affrays, assaults, batteries, trespasses, wounding, and imprisonments, as well on the one side as on the other, and it being of primary importance that peace and tranquillity should be restored, and all animosity and ill-will forever buried be-

tween the people who, from their local situation, will, in all probability, be constrained to continue in the vicinity of each other; and, as the several outrages committed on both sides proceeded more (as the undersigned are impressed) from a mistaken zeal to support the Government to which they thought themselves constitutionally bound, than from a wish to injure their neighbors or disturb the public peace, the undersigned agree to recommend, in the most earnest manner, to the Legislatures of their respective States to pass laws of amnesty, forgiveness, and oblivion for all such offences (under the degree of capital) as may have been committed within the said counties of Buncombe and Walton, respectively, subsequent to the 10th day of December, 1803, and which shall have arisen from and had relation to the disputes which existed concerning the jurisdiction of the two States.

And whereas, the said Commissioners, with like authority, did, on the 27th day of June, in the year aforesaid, at Dowthet's Gap, enter into articles in addition and supplementary to the convention agreed on between the Commissioners of Georgia and North Carolina at Buncombe court-house, on the 18th day of June, in the year aforesaid, which articles are as follows:

The Commissioners of the States of Georgia and North Carolina having discovered, by repeated astronomical observations made on the Blue ridge, and elsewhere, that the thirty-fifth degree of north latitude is not to be found on any part of said ridge of mountains, east of the line established by the General Government as the temporary boundary between the white people and the Indians; and, having no authority to proceed over that boundary for the purpose of ascertaining the said thirty-fifth degree of north latitude, and of running and striking the line accordingly: and being desirous that all causes of collision and irritation between the jurisdictions and people of the two States may be eventually and completely prevented, have agreed to the following articles in addition and supplementary to the convention agreed to at Buncombe court-house on the 18th day of the present month, viz:

ART. 1. The Commissioners of Georgia, for and on the part of their State, acknowledge and admit, which acknowledgement and admission are founded on the aforesaid astronomical observations, that the State of Georgia hath no claim to the soil or jurisdiction of any part of the territory north or west of the ridge of mountains which divides the Eastern from the Western waters, commonly called the Blue ridge, and east or south of the present temporary boundary line between the white people and the Indians; and that they will consequently recommend to the Legislature of the State of Georgia to repeal, at their next ensuing session, the act to establish the county of Walton, and to abrogate and annul all Executive and ministerial or other proceedings for the organization thereof.

ART. 2. The Commissioners, on the part of the State of North Carolina, promise and agree to recommend to their Government, and particularly

Brigadier General James Wilkinson.

to the magistrates, sheriffs, and other officers, civil and military, in the county of Buncombe, to execute the laws concerning forfeitures and penalties; and in any other respect, where the State may be concerned, (under the degree of felony,) upon and towards the people who have adhered to the State of Georgia in the late dissensions concerning jurisdictions, with mildness and clemency; and if the said officers can do it consistently with their obligations of official duty, that they forbear to institute suits, and to distrain or execute for forfeitures and penalties incurred as aforesaid, between the 10th day of December, in the year 1803 and the date of this agreement, until the sense of the Legislature shall be had, and known thereon.

In order, therefore, that said conventional agreement and the articles additional and supplementary thereto, may be carried into full and complete effect,

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the said conventional agreement, and the articles in addition and supplementary thereto, and all and every article and clause thereof be, and the same are hereby fully ratified and confirmed.

Read three times, and ratified in General Assembly, the 17th day of December, A. D. 1807.

JOSEPH RIDDICK, S. S.

JOSHUA G. WRIGHT, S. H. C.

STATE OF NORTH CAROLINA,

SECRETARY'S OFFICE, March 22, 1809.

This certifies that the foregoing is a true copy, taken from the original in this office. Given under my hand at Raleigh, the date aforesaid,

W. M. WHITE, Secretary.

An Act to pardon certain offences committed in that part of Buncombe county formerly claimed by the State of Georgia.

Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That all crimes and misdemeanors, the punishment whereof is not by law capital, which have been committed between the 10th day of December, in the year of our Lord, one thousand eight hundred and three, and the 27th of June last past, within that part of the county of Buncombe, which was formerly claimed by the State of Georgia, and called the county of Walton, be and the same are hereby pardoned, released, and put into total oblivion.

And be it further enacted, That this act shall be in force from and after the passage of an act by the Legislature of the State of Georgia, ratifying and confirming the conventions entered into by and between the Commissioners on the part of that State, and the Commissioners on the part of this State, on the 18th day of June and the 27th day of June, A. D. 1807.

Read three times, and ratified in General Assembly, the 18th day of December, A. D. 1807.

JOSEPH RIDDICK, S. S.

JOSHUA G. WRIGHT, S. H. C.

STATE OF NORTH CAROLINA,

SECRETARY'S OFFICE, March 22, 1809.

This certifies that the above is a true copy, taken from the original in this office. Given under my hand at Raleigh, the date aforesaid.

W. M. WHITE, Secretary.

STATE OF NORTH CAROLINA,

In the Senate, Dec. 7, 1808.

Mr. SMITH delivered in the following report, to wit:

The Committee on the Governor's message, taking into consideration that part thereof respecting the boundary between this State and Georgia, report: That they do not perceive the necessity or propriety of this State taking any further measures at present respecting a dispute which they consider settled, in a solemn convention signed on the 18th of June, 1807, at Buncombe courthouse, by the Commissioners of Georgia and North Carolina duly authorized on the part of each State, and by certain articles entered into, agreed upon, and signed by said Commissioners on the 27th of June, in the same year, at Dowthet's Gap. Submitted.

BENJAMIN SMITH, Ch.

The foregoing report being read:

Resolved, That this House do concur therewith.

By order:

J. RIDDICK, S. S.

M. STOKES, Clerk.

IN THE HOUSE OF COMMONS, Dec. 8, 1808.

The foregoing report being read:

Resolved, That this House do concur therewith.

By order:

JOSHUA G. WRIGHT, S. H. C.

P. HENDERSON, Clerk, H. C.

STATE OF NORTH CAROLINA,

Secretary's Office, March 22, 1809.

This certifies that the foregoing is a true copy, taken from the Journals of the General Assembly of this State.

W. M. WHITE, Secretary.

BRIGADIER GENERAL JAMES WILKINSON.

[Communicated to the House, May 1, 1810.]

Mr. BUTLER, from the committee to whom was referred the resolution of the 4th instant, directing an inquiry into the conduct of Brigadier General James Wilkinson, in relation to his having at any time, whilst in the service of the United States, corruptly received money from the Government of Spain, or its agents; or in relation to his having, during the time aforesaid, been an accomplice, or in any way concerned with the agents of any foreign Power, or with Aaron Burr, in a project against the dominions of the King of Spain, or to dismember these United States; and to inquire generally into the conduct of the said James Wilkinson, as Brigadier General of the Army of the United States, made the following report:

That they have had under consideration these several subjects of inquiry, and have investigated them to the utmost of their power, since the time

Brigadier General James Wilkinson.

of their appointment, but from the limited period in which they have acted, and from the extensive and complicated nature of the subjects, they are under the necessity of stating, that they have not been able to make a thorough and conclusive investigation of the objects of their inquiry.

Such testimony, however, as they have been able to procure, they beg leave to submit as part of their report, and which may be referred to under the following heads and order :

In relation to the first object of inquiry, to wit : the receipt of money by General Wilkinson from the Spanish Government or its agents, refer to the

Deposition of John Ballinger, No. 5.

Letter from Evan Jones, No. 6.

Depositions of F. Langlois, dated the 29th of December, 1808, containing two original letters to himself from the Baron de Carondelet, dated the 28th of January and 28th of June, No. 7.

General Wilkinson's letter to John Adair, dated August 7, 1795, No. 13.

Deposition of Dominique Bouligny, No. 8.

Deposition of Thomas Power, No. 9.

Deposition of William Miller, No. 11.

Letter from Joseph Collins, marked A.

Thomas Portell's certified copy, in his own handwriting, of the Baron de Carondelet's instructions to him, dated January 20, 1796, with translation thereof from the Spanish, No. 14.

Correspondence between Thomas Power and Don Thomas Portell, Nos. 15 and 16.

Deposition of Thomas Power, No. 17.

Deposition of Andrew Ellicott, No. 19.

Thomas Power's letter to the Baron de Carondelet, No. 20.

Thomas Power's letter to Governor Gayoso, No. 21.

Thomas Power's letter to the Baron Carondelet, No. 22.

Thomas Power's letter to Governor Gayoso, No. 23.

Elisha Winter's deposition, marked W.

Deposition of James M. Bradford, No. 25.

Deposition of Isaac Briggs, marked I. B.

In relation to the second object of inquiry, to wit : the connexion of General Wilkinson with the agents of Spain in a project to dismember the United States, refer to the

Deposition of Thomas Power, No. 34.

A certified copy of a letter from General James Wilkinson to Governor Gayoso, in the handwriting of Governor Gayoso, dated September 22, 1796, marked G. Y.

General Wilkinson's secret instructions to Thomas Power, in the handwriting of Philip Noland, No. 35.

Thomas Power's letter to the Baron de Carondelet, No. 36.

Baron de Carondelet's letter to Thomas Power, No. 37.

Baron de Carondelet's letter to Thomas Power, No. 38.

Thomas Power's letter to the Baron de Carondelet, No. 40.

General Wilkinson's letter to Thomas Power, No. 42.

Thomas Power's letter to Governor Gayoso, No. 43.

General Wilkinson's letter to Thomas Power, No. 70.

Baron de Carondelet's letter to Thomas Power, No. 44.

Daniel Clarke's deposition, No. 45.

In relation to the third object of inquiry, to wit : General Wilkinson's connexion with Aaron Burr, refer to the

Deposition of Daniel Clarke, before referred to, No. 45.

General Wilkinson's letter to John Adair, No. 78.

Evidence of General Wilkinson, as communicated to Congress, 23d November, 1807. [See "Annals of Congress," 1st sess. 10th Cong. pages 387, 512.]

Evidence of General Wilkinson, President's Message. [See "Annals," 1st sess. 10th Cong. p. 512.]

Letter from General Wilkinson, to Daniel Clarke, June 9, 1805, marked X.

President's Message to Congress, 22d January. 1807. [See "Annals," 2d sess. 9th Cong. p. 32.]

Wilkinson's letter to Colonel McKee, President's Message to Congress. [See "Annals," 1st sess. 10th Cong. p. 643.]

Mr. Tazewell's evidence, President's Message to Congress. [See "Annals," 1st sess. 10th Cong. p. 627.]

Letter in cipher from Burr to Wilkinson, dated 29th July, as deciphered by a member of the grand jury at Richmond. [See "Annals," 2d sess. 9th Cong.—Appendix, p. 1011.]

General Jonathan Dayton's letters to Wilkinson in cipher, President's Message. [See "Annals," 1st sess. 10th Cong. p. 560.]

Wilkinson's deposition, No. 81, as communicated to Congress. [See "Annals," 2d sess. 9th Cong. p. 1008.]

Extract of Wilkinson's letter to the President, not by Smith, dated 21st October, 1806, President's Message. [See "Annals," 1st sess. 10th Cong. p. 538.]

In relation to the fourth object of inquiry, to wit : the conduct of General Wilkinson, as Brigadier General of the Army of the United States, refer to the

Deposition of William Simmons, Esq., letter S.

Deposition of Captain George Peter, letter P.

Deposition of Captain William E. Williams, letter W.

Deposition of John Smith, letter H.

Letter from William Simmons, Esq., enclosing extracts, A, B, C, D.

Letter from General Wilkinson to Daniel Clark, No. 71.

The committee think proper, also, to submit the following papers relating to tobacco, and other commercial transactions in which General Wilkinson was concerned, from the month of — in the year 1788, to the month of — in the year 1790, to wit :

General Wilkinson's account current with Clark & Rees, in the handwriting of Philip Noland, dated the 8th of August, 1788, No. 27.

Philip Noland's account of sales of tobacco, dated September 21, 1790, No. 29.

Wilkinson's account current with Clark & Rees, dated May 1, 1789, contained in the account book, page 30.

Wilkinson's letter to Clark & Rees, dated May 20, 1790, No. 30.

Wilkinson's letter to Clark & Rees, dated June 20, 1790, No. 31.

Wilkinson and Dunn's account current with Clark and Rees, dated August 29, 1789, and 5th September, 1789, with Wilkinson's order and Noland's receipt for balance, No. 32.

Philip Noland's declaration, dated September 10, 1790.

Wilkinson's accountable receipt, No. 4.

Articles of agreement between Wilkinson and Dunn, and Clark, senior.

Letter from General Wilkinson to Daniel Clark, relative to the Plain Tale, No. 2.

Brigadier General James Wilkinson.

In making the last preceding statement, the committee beg leave to remark that, from an examination of the sentence of the military court of inquiry, ordered at the request of General Wilkinson, and of which Colonel Burbeck was president, it appears that the tobacco transactions of General Wilkinson, at New Orleans, in 1789 and 1790, constituted a material part of that inquiry; and that a copy of an account current was laid before the said court by General Wilkinson, and designated by No. —, and several letters accompanying said account, supposed by the court to be in the handwriting of Philip Noland, the agent of General Wilkinson.

The committee, conceiving that the papers which had been collected by the said court, would aid them in their investigation, made application for those papers to the Secretary of War, but were unable to obtain them, they having been taken from the office by General Wilkinson, as appears from the deposition of John Smith, chief clerk in the War Office.

The committee then directed a subpoena to Gen. Wilkinson, requiring him to send or produce all the papers which had been used or collected by the said court. In obedience to which, General Wilkinson sent to the committee a packet of papers, which did not contain either the account and letters referred to in the sentence of the court, or the defence of General Wilkinson; nor have the committee been able to procure them, consequently have not had it in their power to compare the accounts herewith exhibited with those which were laid before the military court of inquiry; for the further elucidation, refer to Walter Jones's deposition, marked W. J. The committee also submit the deposition of Daniel W. Cox, authenticating the papers, to which it specially refers, marked D. W. C.

Papers relative to the first point of inquiry.

No. 5.—Deposition of John Ballinger.

Personally appeared before me, the undersigned, one of the justices of the peace for the parish of New Orleans, Mr. John Ballinger, now resident in Cape Girardeau, Territory of Louisiana, late a member of the Kentucky Legislature, who, being duly sworn on the Holy Evangelists of Almighty God, did depose and say:

That, in the forepart of the Winter of the year 1789, as well as he recollects, his brother Joseph Ballinger brought two mules loaded with money, from New Orleans to the State of Kentucky, for General James Wilkinson: that, from the fatigue of the journey and indisposition, his brother was unable to finish his journey, and got this deponent to conduct the said mules and money to General Wilkinson, at Frankfort, where he arrived on the 26th day of December, in the year aforesaid. The said money was in leather bags, and vry heavy loads; and this deponent further declares, that the General expressed much satisfaction at the receipt of the money, having been under some apprehensions on account of the delay which had taken place on the journey;

which said mules and money General Wilkinson receipted for, which receipt is among this deponent's papers; and further this deponent saith not.

JOHN BALLINGER.

Sworn and subscribed to at the city of New Orleans, this 12th day of January, 1809, before me.
SAM. W. EARLE, J. P.

No. 6.—Letter from Evan Jones to Daniel Clarke.

NEW ORLEANS, Feb. 16, 1809.

SIR: In answer to your letter of yesterday, I remember General Wilkinson's having stopped at my plantation in the Fall of 1789, (as I think,) when he was on his way to Kentucky, accompanied by Philip Nolan. As I live on the west side of the Mississippi, and the General went up on the east, he stopped at some plantation nearly opposite mine, and came over and spent a day or two with me.

In the course of our conversation, he told me that he had left a sum of money under the care of Nolan, whom he spoke of as a man of great strength; saying he could take \$2,000 with one hand from off a mule or horse, and carry them with the utmost ease into a house. I do not remember whether the General mentioned to me the amount he was taking up with him; but, to the best of my remembrance, he said he had two mules or horses for the purpose of carrying his money. This is all I can recollect of the transaction.

I am, sir, your most obedient servant,

EVAN JONES.

DANIEL CLARKE, Esq.

No. 7.

On the 29th day of December, in the year 1808, personally appeared before me, the undersigned, one of the justices of the peace for the county of Orleans, Monsieur François Langlois, a citizen of the United States, and resident of New Orleans, who, being duly sworn on the Holy Bible, did depose and say: That, in the year 1794, he was a lieutenant of militia, in the service of His Catholic Majesty, and commanded the galliot the *Fleche*, then on station at New Madrid, having under his orders the gunboat the *Taureau*, and bateau the *Prince of Austria*; that, while there, a Mr. Owens arrived from New Orleans, with a sum of money entrusted to him by the Baron de Carondelet, to be delivered to General Wilkinson, somewhere on the Ohio; and this deponent had directions from the said Baron de Carondelet to take measures, in concert with Don Thomas Portell, the commandant of New Madrid, and the aforesaid Owens, to have the sum entrusted to the charge of this latter conveyed in safety to its destination. In consequence thereof, this deponent, at a council held at New Madrid, by Portell, Owens, and himself, recommended that resident citizens of that place should be employed to accompany Owens; but his opinion was overruled by Portell and Owens, who thought it would be more economical, and consequently

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more agreeable to the Spanish Government, to have a boat's crew furnished from the galliot of this deponent, which he furnished. And, further, he deposes that the sum of \$6,000, which had been brought by Owens from New Orleans to New Madrid, and by him delivered to Don Thomas Portell, the commandant of the fort, was by Portell embarked on board the galliot of this deponent, to be conveyed to the mouth of the Ohio, at which place he furnished Owens with a patron named Pepello, and six of his oarsmen, and shipped in his canoe the beforementioned sum of \$6,000, to be delivered to General Wilkinson. And he declares that the sum was packed by himself in three small barrels; but, being apprehensive of some bad design on the part of Owens's crew, he took back the money into his galliot, and retained it twenty-four hours in his possession; when, at Owens's pressing solicitations, he redelivered it to him, who then departed with it; and some short time afterwards he learned that Owens had been murdered by his crew, and the money made away with by them. And further he, this deponent, declares that he afterwards arrested, and sent to New Orleans for trial, one Vexerano, one of Owens's crew, who was concerned in the murder of said Owens, and plunder of the money. He further deposes that, although it was agreed between the Spanish Government and Owens, to save appearances, that the money should appear to belong to said Owens, yet he knows it was sent by the Baron de Carondelet for the use of, and to be delivered to, General Wilkinson; and that, knowing the interest which the Spanish Government had in this transaction, he wrote an official account to the Baron de Carondelet of the part he had taken in it, and the advice he had given respecting the conveyance of the money safely to its destination; and, in reply the Baron regretted that his advice had not been followed in every particular. And the deponent further declares, that Owens had no other money than the \$6,000 abovementioned.

In testimony of which he has signed.

F. LANGLOIS.

D. BOULIGNY, J. P.

NOUVELLE ORLEANS,
Janvier 28, 1795.

J'ai appris, Monsieur, avec bien de la peine, par votre lettre du 13 de 9bre, la mort de Mr. Owens; ce malheur est un de ces événements que l'on ne sauroit prévoir, et que la Providence dispose à son gré, sans que tout la prudence humaine puisse l'éviter; je voudrois, et j'espère encore, que ce malheureux Vexerano sera arrêté, car cette action est trop infame pour qu'il puisse trouver un asyle.

Je compte que vous verrez Mr. Rousseau à la fin d'Avril, que vous vous incorporerez avec l'escadre, prenant le commandement d'une galère, avec laquelle vous descendrez ici à la fin de Juin; à moins que vous ne préféreriez de rester encore avec la même commission dans ces parages; il paroît que vous vous y êtes bien porté, ce qui

n'est pas peu de chose dans des endroits aussi fiévreux.

A présent que le fleuve sera haut, vous devez redoubler le soin pour ne laisser introduire personne, ni aucun papier par l'Ohio, tendant à troubler la province; on est étonné, en Europe de la tranquillité qui y règne, et ceux que j'en ai écarté au commencement de la guerre, ou qui en sont sorti pour leurs affaires, écrivent présentement qu'ils voudroient être encore à la Louisiane, et louent les soins que nous avons pris pour en écarter les esprits turbulens; de sorte que ces mêmes gens qui viuperoient autrefois nos dispositions, sont ceux qui les exaltent actuellement, et nous exhortent à les continuer.

Je recommande à Mr. Portell de bien traiter les François, Royalistes, Hollandois, Allemands, &c., qui se présenteront, et dont je vais former un bel établissement dans le Ouachita; je vous fais la même recommandation, mais vous ne leur laissez aucun papier, livres, ou manuscrits, ayant rapport aux affaires du temps.

J'ai l'honneur, avec la plus parfaite considération, monsieur, votre, très humble et très obéissant serviteur,

DE CARONDELET.

Monsieur LANGLOIS.

NOUVELLE ORLEANS,
Juin 28, 1795.

J'ai reçu, monsieur, vos lettres du 25 Fevrier, 14 Avril, et 15 Mai, par lesquelles vous me parlez de Mr. de Vilemont, comme d'un commissionné de la cour, ce qu'il vous aura sans doute fait entendre; mais il n'en étoit rien. Don Louis de Vilemont étoit porteur d'un passeport de la cour, qui lui permet de voyager pendant quatre ans, et rien de plus; mais quand même il se seroit trouvé chargé d'une commission, vous devez savoir qu'elle n'est valable qu'autant que comme commandant général de la province, j'aurois expédié mes ordres aux commandans particuliers de lui en permettre l'exercice, et qu'aucun commissionné ne peut agir sans m'avoir fait part auparavant de ses ordres. Puisque la chose est faite, il n'y faut plus penser, mais vous voyez combien Don Louis Vilemont étoit peu fondé dans ses discussions avec vous.

J'ai été enchanté de la prise que vous avez fait du scélérat Vexerano, à qui on a fait ici le procès, et qui sera probablement perdu: on prétend qu'il y en a un autre réfugié dans la province qui étoit du même complot.

Je viens de recevoir par Mr. Valé votre dernière lettre. Je tacherai d'arranger avec Mr. l'Intendant le défaut de formalité de vos feuilles, mais je crains bien que si Don Thomas Portell ne consent à les intervenir vous ne vous trouviez embarrassé; car un tribunal de *cuentas* de la Havane, on ne les passera pas sans intervention. Je ne comprends pas comment Mr. Portell ne vous a pas instruit à ce sujet.

J'ai l'honneur d'être, très parfaitement, monsieur, votre très humble et très obéissant serviteur,

DE CARONDELET.

Monsieur LANGLOIS.

Brigadier General James Wilkinson.

No. 13.—General Wilkinson to John Adair.

August 7, 1705.

MY FRIEND: I have this morning (now, I intended to say) received your favor by Mr. McDowell. He has ate with me, but will return twenty miles this evening, which obliges me to rise from cool Madeira to drop you a hasty line: it will be disordered, of course, for hurry produces confusion.

I send that which is handed about here—and to me by Judge Turner—as the bottom of another memorable treaty. From the mouth of Kentucky to the mouth of Ohio, we have a near neighborhood with our old friends. Will it be a good one, or will mutual aggressions soon throw open the temple of Janus once more? The Governor here, I am told, scouts this important production of our Solomon. It is my business to keep my peace, which, to a man of *mercury*, whose heart and tongue are in unison, is no easy thing. If my very damned and unparalleled crosses and misfortunes did not uncash me, I would be with you in flour. But as I have honor of \$6,590 received for me in New Orleans, \$1,740 only have reached my hand—this, independent of poor Owens's loss. The whole of this last sum is not lost, but it is not within my control, and will not be for six or nine months. I am sorry for old McAffod, for I think he was an honest man; but I am more sorry for his son, and if I can serve him respecting the property left behind, and you think him honorable, he may, on your recommendation, receive a letter to my friend. This is *entre nous*, because I have refused many.

I know that an emotion of friendship induced you to give me the mare, and when I am outdone in that commerce, may "perdition catch me;" yet I love the brute I must confess; if she runs she must run your property, or she will certainly break a leg or thigh—you understand me. I send you \$50 by Mr. McDowell. What was I to pay for her? We must not misunderstand one another; if I lend the nag to you, and any misfortune ensues, I shall not be pleased, nor will you be happy; but if she is essential to your pleasure or pastime, although no other man should have the honor to cross her, she is yours at what she cost me. I make a single reserve; if you can make a match, and let me in for a bet of £100 cash, I will divide the risk of her safety with you. Old Tony, it is currently said, will go to Philadelphia so soon as he finishes the dependencies of his treaty; this is *entre nous* also; if this should be true, you will hear from me; in the mean time pardon this scrawl, which I have not time to examine, and believe me to the bottom,

Your friend and obedient servant,

JAMES WILKINSON.

Colonel ADAIR.

No. 8.—Deposition of D. Bouigny.

On this 16th day of the month of January, in the year 1809, personally appeared before me, the undersigned, a justice of the peace for the city of New Orleans, Monsieur Dominique Bouigny,

formerly adjutant major of the regiment of Louisiana, in the service of His Catholic Majesty, and now a member of the Legislature of the Territory of Orleans, who, being duly sworn on the Holy Bible, did depose and say, that, in the year 1795, as well as he can remember, he exercised the functions of adjutant major in the regiment of Louisiana, and was commissioned by the Governor the Baron de Carondelet to conduct the trial of one Pepillo, who was accused of having been one of the authors of the death of Mr. Henry Owens, who had been assassinated in the Ohio on the American territory, and of the robbery of a sum of money, of which this Mr. Owens was the bearer to General Wilkinson, and which had been delivered to him by the Spanish Government; and he further declared, that it was public and well known among the officers under the Spanish Government, that General Wilkinson was a pensioner of the Spanish Government, and that the major part of the people in office believed that there was no reliance to be placed on the promises which the General made to the Government, because they could not persuade themselves that his influence could not induce the people of the Western States to separate from the American Confederation.

D. BOULIGNY.

Sworn to, and affirmed before me.

F. DUTILLET, J. P.

No. 9.—Mr. Power's deposition respecting the murder of Henry Owens.

Personally appeared before me, the undersigned, one of the justices of the peace in and for the city of Orleans, Mr. Thomas Power, who being duly sworn, doth depose: that, in the year 1794, Mr. Henry Owens arrived at New Madrid from New Orleans, with a sum of money to be delivered to General Wilkinson, as the deponent understands and believes, from the Spanish Government; that he left New Madrid in the royal galliot *Fleche*, commanded by Francis Langlois, accompanied by a King's pirogue; the galliot destined to the mouth of the Ohio, from whence the deponent understood Owens was to proceed up the Ohio in the pirogue. And this deponent further saith that, some time after the departure of the said Owens, one of the crew of the pirogue, in which he had embarked at the mouth of the Ohio, returned to New Madrid, and gave information that Owens had been robbed and murdered by the rest of the crew, who had proceeded up the Ohio with their booty. And this deponent saith that, some time in the year 1795, this deponent being at New Madrid, Lieutenant Aaron Gregg, of the American army, arrived there, accompanied by a Mr Charles Smith, and bearing a letter from Major Doyle, who then commanded at Fort Massac, to the commandant of New Madrid. The letter stated the following circumstances, which were confirmed both by Smith and Doyle to the deponent: that three of the murderers of Owens, after a variety of adventures, were confined, under General Wilkinson's orders,

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at Fort Washington; that by his directions they were put in irons, and placed on board a flat, under the direction of Mr. C. Smith, to be conveyed to New Madrid; that a letter was given to him from Wilkinson to the Commandant of Madrid, containing an order to pay \$500 on the delivery of the prisoners: that Smith was proceeding with them, and attempting to pass Fort Massac by night, was stopped by Major Doyle, who commanded there, who would not permit them to be sent out of the territory of the United States to be tried for a crime committed in it. The letter, after stating these circumstances, requested Captain Portell to send an interpreter to examine the prisoners, who spoke no English. Captain Portell requested the deponent to go on this service, which he undertook, and returned with Lieutenant Gregg, and Mr. Smith; the latter having presented his order for the \$500, the payment of which was refused, as the prisoners were not delivered. On this deponent's arrival he found three of the boat's crew who had gone up with Owens. On the first examination he confessed the fact of having murdered and robbed him; and they gave to the deponent a circumstantial detail of their adventures afterwards. A few days afterwards the deponent went to Louisville with Lieutenant Gregg and Mr. Smith, for the purpose of interpreting for the prisoners, who were there delivered to a justice of the peace, Captain Harrison, who transmitted them to another at Bairdstown, Captain Frye; but the men denying the fact before the justices, they were detained for further evidence. And this deponent saith, that he did not divulge to the justices the confessions made by the prisoners to him, because he knew it was the wish of the Spanish officers to have the men delivered to them, rather than tried in the territory of the United States; and that such wish arose from a fear of divulging the secret of Owens's mission on a public trial. And this deponent saith, that he left the prisoners at Bairdstown, and afterwards understood they had been sent to Frankfort, where they were afterwards discharged for want of evidence: and further this deponent saith not.

THOMAS POWER.

Sworn and subscribed before me, in New Orleans, the 18th March, 1809.

E. FITCH, *J. P.*

No. 11.—Miller's deposition about Collins.

Personally appeared before me, the undersigned, one of the justices of the peace for the city of New Orleans, Mr. William Miller, of the county of the Rapides, in the territory of Orleans, who, being duly sworn on the Holy Evangelists of Almighty God, did depose and say, that, some time shortly after the hurricane which happened in this country, in the month of August, of the year 1794, he chartered and fitted out, in company with Mr. Robert Cochran, of Natchez, a small vessel in the Bayou St. John, near this city, in which they both sailed for Pensacola and New Providence, and at that time he formed an ac-

quaintance with Mr. Joseph Collins, who, shortly before, arrived in this city with a Mr. Owens, from Ohio. The said Collins was occupied in fitting out a small vessel in the Bayou St. John, in which was shipped a sum of money, as Collins informed the deponent, amounting to upwards of six thousand dollars, which he, said Collins, had received from the Spanish Government, for account of General Wilkinson; and he also informed this deponent, that a sum of nearly equal amount had been delivered to Mr. Owens, for the same purpose, with which he returned by way of the river; and this deponent further declares, that this step occasioned, at the time, much surprise, as it was contrary to law to ship cash, and subject to seizure and confiscation when discovered; and this deponent further declares, that the said Joseph Collins set sail a short time before him, with the aforesaid money on board his vessel, as said Collins informed this deponent; and he afterwards learned that he had arrived there-with, in safety, at the port of Charleston.

WM. MILLER.

Juré par devant moi ce jour onzième du mois de Mars, mil huit cent neuf.

DU COURNAUX, *J. P.*

(A.)—Letter from Joseph Collins to Daniel Clarke, respecting the receipt of the money from Don Gilberto Leonard.

PASCAGOULA, *March 10, 1809.*

DEAR SIR: I returned yesterday from Mobile and Pensacola, and found your letter of the 19th of February last, requesting me to send you the date I received the money from Don Gilberto Leonard, in New Orleans; therefore, have had recourse to my journal round the Florida point. I find that we left Bayou St. John on the 22d of August, 1794, and must have received the \$6,334 about the 19th or 20th of August, the same month.

I am your very humble servant.

JOSEPH COLLINS.

Mr. DANIEL CLARKE.

No. 14.—Thomas Portell's certified copy of Baron Carondelet's instructions to him.

NEW ORLEANS, *Jan. 20, 1796.*

In the galley the Victoria, Bernardo Molini, patron, there have been sent to Don Vincent Folch, nine thousand six hundred and forty dollars, which sum, without making the least use of it, you will hold at my disposal, to deliver it at the moment that an order may be presented to you by the American General Don James Wilkinson.

God preserve you many years.

DE CARONDELET.

To Señor DON TOMAS PORTELL.

NEW MADRID, *June 27, 1796.*

I certify that the foregoing is a copy of its original, to which I refer.

THOMAS PORTELL.

Brigadier General James Wilkinson.

No. 15.—Translation of a letter from Thomas Power to Don Thomas Portell, Commandant of New Madrid, dated June 27, 1796, at New Madrid.

Having received verbal instructions from Mr. James Wilkinson the American General, to take charge of the money, which, by a letter, he received from the Secretary of the Government, Don Andres Armesto, under date 7th or 8th of March last, of which I was bearer, he has advice is deposited in this post, and being informed by the official letter which you have received on this business from the Governor General of the province, of which you will be pleased to furnish me a copy, that said money is not to be delivered without an express order from the said Mr. Wilkinson, I find myself forced to relate, circumstantially, some particulars to smooth and remove the difficulty which the want of a written order on the part of the aforesaid General Wilkinson presents. Although this relation may appear an abuse of the confidence with which the Governor General of the province, and the Governor of Natchez, and particularly General Wilkinson, have honored me, I am persuaded that the urgency of the case which offers will serve me as an excuse and justification. You are not ignorant of the fact that Don Manuel Gayoso de Lemos, being here in the month of September of the year last past, entrusted to me some despatches of the greatest importance for General Wilkinson, which I carried to Cincinnati, and I returned with the answers in the month of November. By order of the said Don Manuel Gayoso, I made immediately another journey in the Ohio, and I ascended it to Red Banks, in search of Mr. Sebastian, who came with me to the mouth of the Ohio, where we met with the Governor of Natchez. At the end of December I accompanied this gentleman to Natchez, and I went thence to New Orleans. The principal object of my going down was to take charge, by order of General Wilkinson, of the money which you now have in deposit for him, which is shown by the letters which he wrote to the Governors of this province and of Natchez; but, at my arrival, the money had been already sent off in one of His Majesty's galleys for this place, which I learned from the Baron de Carondelet, the Intendant, and Don Andres de Armesto. I repeatedly treated on this business with the two last of these persons, urging forcibly the necessity of sending sugar, coffee, and powder to New Madrid, to form a cargo to take to Kentucky with Wilkinson's money, hiding by this means the true intention of the voyage, and giving it the appearance of a commercial speculation. All this Wilkinson had before represented as indispensable, for many reasons, particularly, to avoid a misfortune similar to that which had already occurred. At last, the Secretary told me that the barge in which Mr. Aaron Gregg, the American officer, was to go up, was destined for this service, and that, as for the crew, he would permit me to choose among the Creoles, residents in this post, those who might appear to me most worthy of confidence; so that I left New Orleans

with the belief that, at my return to this post, I should find everything disposed conformable to what I have just related. On my arrival at Greenville, I informed General Wilkinson of the steps which I had no doubt had been taken, from whence has resulted that he, like myself, was impressed with the belief that all the measures for executing this service with success had been taken. I cannot communicate all the motives why Wilkinson has not given me an order in writing, but one of them was, that he did not know the sum of money which you had to deliver to his order, the Governors not having written a word to him on the subject, the Secretary only saying that his money was deposited in New Madrid, without expressing the sum. In the letters in cipher, from General Wilkinson, for the Governors, which are here enclosed, he tells them that he has sent me to bring the aforesaid money, informing you that the No. 1 is for the Governor General of the province, and the No. 2 for Don Manuel Gayoso. I will add that General Wilkinson, when I represented to him that on presenting myself without his order in writing, some difficulty might arise, authorized me, if the case required it, to write an order that you should deliver his money, specifying the sum there might be, signing it in his name, and giving you a receipt therefor. I cannot omit that the commission of General Wilkinson was so sudden, so urgent, that it was extended even to limiting my return to my destination by the first of August, of which I advise you, that you may endeavor not to delay the service. I believe that the Governor General is not ignorant of the embarrassments of General Wilkinson, nor can he be ignorant that for a long time past, he has been expecting this money, the delay of which has been the cause of much trouble to him, involving him in great difficulties; and I can assure you confidently, that he will be very much disgusted with any delays in the expedition, which might be productive of serious injury. As for the mode of carrying the money, it is evident that to take it openly would be too scandalous a thing, if I were not to say it would be madness. The unhappy result of the expedition of the unfortunate Henry Owens, ought to serve us a beacon, in order not to lose ourselves on the same rock, and to make us take another course, less dangerous. I would wish to put a bag of one thousand dollars in a barrel of coffee or sugar, so that, although the difference of the respective gravity between silver, sugar, and coffee, be very great, the quantity being so small it will not be easily known. It will likewise be prudent to carry some barrels without money, in order to sell them before arriving at Cincinnati, if it should so happen that any one should offer to buy these goods; because, not to sell them, when it might be done to advantage, would excite suspicion; and to complete the disguise, it would be well to take a certain quantity of powder and rum. If these dispositions should appear defective, I beg you to make such changes as may be to your mind. God preserve you many years.

THOMAS POWER.

Brigadier General James Wilkinson.

No. 16.—Translation of a letter from Don Thomas Portell to Mr. Thomas Power, dated

NEW MADRID, June 27, 1796.

Having well considered the contents of your letter of this day, I mention that I agree in every thing to the whole of the reflections you place before me, and, although at first sight it appears that I ought to await the decision of the Governor General, as he prescribes to me in his official letter of the 20th January of the present year, and of which I enclose you a copy, which you request of me, the circumstances which you expose are such, that they leave me nothing more to do than to tell you to forward me a memorandum of the number of pounds of coffee, sugar, barrels in which to fill the powder and rum you desire for your expedition; because, so soon as I receive it, I will get it ready as you desire, informing you that for the merchandise you must sign me an acknowledgment of having received it, and for the money, a receipt as the attorney of General Wilkinson.

In order that the barge may be ready, and as you may want it, I have written an official letter to the Lieutenant Colonel Don Vincente Folch, that he may send it as soon as possible; because, as was nothing was said to me of what you have now mentioned respecting it, Mr. Francis Langlois asked it of me, for an affair of service, and took it loaded with corn to the fort of San Fernando, and it has not been returned, although I have required it, thinking it might be wanted here; Don Vincente Folch having answered me, that if I had not orders to keep it, there were none to return it.

The two letters in cipher remain in my hands, which I shall forward by the first safe opportunity, with the distinction you point out, No. 1 to the Governor General, and No. 2 to the Governor of Natchez.

As for packing the money, and arranging the barrels, as soon as they are ready, between you and myself all this may be done without any one else acquiring a knowledge of it. God preserve you many years.

THOMAS PORTELL.

To Don THOMAS POWER.

No. 17.—Mr. Power's deposition respecting the payment of \$9,640 to General Wilkinson.

Personally appeared before me, the undersigned, one of the justices of the peace in and for the city of New Orleans, Mr. Thomas Power, who, being duly sworn, saith: That some time in the month of June, in the year of our Lord, 1796, he arrived at New Madrid, after having had several conferences with General Wilkinson, by order of the Baron de Carondelet, on the subject of a proposed separation of the Western country from the United States, under the protection, and by the aid, of Spain; that he was sent to New Madrid by General Wilkinson for the purpose of taking charge of a sum of money, which he had brought notice to the General was lying there for him, from the Baron de

Carondelet; that, on his first demanding the same in the name of General Wilkinson, Captain Portell, the commandant, refused to deliver it without a written order; and that, as he had none, he was obliged to write a letter to Captain Portell, entering into all the details which were necessary to show him, that he, this deponent, was acquainted with the object of sending the said money; that the said Portell wrote him an answer, agreeing to deliver him the sum of money in question for General Wilkinson, and, at the same time, sent him a copy of the order from the Baron de Carondelet, which accompanied the delivery of the money to him, Portell; that the said letter and answer are dated the 27th of June, 1796, and the said order from the Baron de Carondelet is dated the 26th of January, in the same year, and are the documents which have been laid before Congress by John Randolph and Daniel Clarke, Esquires. And this deponent saith that, by virtue of the arrangement made by the said letters, he received from Don Thomas Portell the sum of \$9,640, which he packed up in barrels of sugar and coffee, and was proceeding up the Ohio with the same, when he was stopped and searched by Lieutenant Steele; that, in consequence of this interruption, he landed his cargo at Louisville, and went on horseback to Cincinnati, where he met General Wilkinson, and informed him of the circumstances that had occurred, on which the General directed him to deliver the dollars to Philip Nolan, which the deponent did; that the said Nolan conveyed the barrels of sugar and coffee; in which the dollars were packed, to Frankfort, where the deponent saw them opened, in the store of Mr. Montgomery Brown; that the sum of \$9,000 was given by General Wilkinson's direction to Philip Nolan, and the remainder, \$640, was retained by the deponent, with the General's consent, for the purpose of paying expenses, but which he gave directions to secure for him from the Spanish Government, in the settlement of his account. And this deponent further saith, that he sold the sugar and the coffee, in which the dollars were packed, to Mr. Abijah Hunt, of Cincinnati. And this deponent further saith, that when he afterwards saw General Wilkinson, and informed him that he had delivered the money agreeably to his orders, he said it was well. And further this deponent saith not.

THOMAS POWER.

Sworn and subscribed before me, in New Orleans, the 18th of March, 1809.

E. FITCH.

Justice of the Peace.

Interrogatories for A. Ellicott.

GENERAL WASHINGTON.

1. Were General Washington's instructions to you to scrutinize my conduct, written or verbal?
2. In speaking of certain citizens of the United States, connecting themselves improperly with the Spanish Government, did General

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Washington state to you the grounds and nature of his suspicions, and the objects which such persons might have or had in view in such associations with the Spanish Government?

3. Do you recollect what other names besides General Wilkinson's were mentioned on that occasion by General Washington?

4. Did you feel yourself bound by that engagement to act as a spy on General Wilkinson's conduct; and in what manner did you fulfil it? Did you ever report General Wilkinson for any illegal act, or any illicit connexion?

5. Did General Washington, by word or manner, express to you any serious apprehension of dangerous consequences to the Union, from the disaffection mentioned to you?

6. When and where did you become acquainted with Philip Nolan?

7. What was his general character, and did he not render you services on your route down the Mississippi, to Natchez, as a commissioner of limits?

8. Was he not zealously attached to the United States, and do you not think he would have supported the interest of the United States at every hazard of life and property, against any power whatever?

9. Did you ever converse with him respecting General Wilkinson's connexion and intercourse with the Spanish Government of Louisiana? State everything concerning the same: whether the said Nolan did not explain to your satisfaction the nature of that intercourse to be commercial, and whether you have not expressed this circumstance to others?

10. Did not the said Nolan inform you that General Wilkinson had been playing a deceptive game with the Spaniards? and do you not know that a deceptive policy and fictitious appearances were necessary with the Spanish Government, to protect Nolan's political or commercial enterprises in Louisiana?

11. Did he ever communicate to you any plan he had projected, to save the district of Natchez, if it had been attacked by the Baron of Carondelet, by seizing that officer when on a reconnoitring party, and bearing him off to the people of the district?

12. Do you know Thomas Power, and what has been your opinion of his character?

13. Did he ever inform you that General Wilkinson held any illegal connexion with the Spanish Government?

14. Did he ever, by letter, attempt to prejudice you against General Wilkinson, and what was the effect?

15. From whom did you receive the minute information of Power's mission to the States of Kentucky and Tennessee, and the objects of that mission, and that he was instructed by the Baron of Carondelet not to return without seeing General Wilkinson?

16. Was Power apprized of your knowledge of his mission to Kentucky and Tennessee, and that he was to see General Wilkinson?

17. Have you not declared that you considered

Thomas Power the enemy of General Wilkinson, and that he would leave nothing undone to his injury, which art, duplicity, and intrigue, could effect?

18. Did you not also declare, in 1800, that you knew Power was not the friend of General Wilkinson, and that he was a man of duplicity?

19. Did you communicate to the Government all the particulars you had learned respecting Power's mission to Kentucky and Tennessee, in June, 1797; and under what date was your communication made?

20. Did you understand the interview Power was ordered to seek with General Wilkinson was for any sinister purpose, or relative to the execution of the treaty of friendship, limits, and navigation?

21. Who were those confidential persons in Kentucky and Tennessee, to whom you exposed the objects of Power's mission, and what the particulars of those expositions?

22. Did you ever hear Power speak of General Wilkinson's tobacco concerns at New Orleans, or say that the Spanish Government was indebted to him on that score?

23. To whom was the letter of Gayoso, which fell into your hands in November, 1798, addressed; and by whom was it delivered to you, and what were the particular contents of it?

24. What other names besides General Wilkinson's were mentioned in that letter of Gayoso, and for what reasons do you presume it to be in the hands of D. Clarke and T. Power?

25. What effect did this letter of Gayoso then produce on your mind relative to the character and conduct of General Wilkinson?

26. Are you certain that it was Gayoso's letter that you saw? and did you not see another letter about the time that Gayoso's fell into your hands, which appeared to be designed to injure General Wilkinson?

27. How did your conversation respecting General Wilkinson commence with Mr. Portell? was it at your instance or at his, and for what purpose?

28. Who were the other gentlemen named by Captain Portell to have received money from the Government of Spain, by the same boat which carried money to General Wilkinson, and who were considered pensioners of that Government?

29. Did you understand how Captain Portell came to discover that the money sent to General Wilkinson was not on account of any commercial transaction?

30. Did you communicate the particulars of this information to the Government, and at what time, and in what manner? if not, through what motives did you withhold it from the Government?

31. Wherefore were you so particular in noting the precise sum of money which Portell informed you he had transmitted to General Wilkinson?

32. What impression did this information make on your mind respecting General Wilkinson? did it, at that time, affect your confidence in him?

33. Is not that Portell the same who gave up

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a military post to Bowles and a party of Indians, through treachery or cowardice? and has he not been dishonored for his conduct by the Spanish Government?

HUTCHINS.

34. Did not Daniel Clarke, junior, of New Orleans, intercept a private letter from the late Colonel Anthony Hutchins to his agent in London, and furnish you a copy of the same?

35. Was not the said letter under seal, and was not the seal broken? Did not the said Clarke transmit the said letter, or a copy of it, to his uncle, Colonel Daniel Clarke, of the Mississippi Territory, and did he not afterwards publish the same, with a view to injure the writer?

36. Have you not declared that the interception of Colonel Hutchins's letter was to satisfy your "inquiries which were intended to serve your country," and had you no other motive?

37. Had not Hutchins represented you to be in the Spanish interest, and did not you desire to employ the intercepted letter to counteract his representations?

38. Were you not intimate with Hutchins when you first reached Natchez? Had you not afterwards a bitter animosity against him, and did not you report him to the Government as a British pensioner, and an enemy to the United States?

General questions.

39. Have you not declared, in New Orleans, that almost all of your own, and General Wilkinson's enemies, were becoming Spaniards?

40. Have you not declared a large proportion of the inhabitants of Mississippi Territory to be a set of the most abandoned, malicious, deceitful, plundering, horse-thieving rascals on the continent?

41. What was your opinion of General Wilkinson, as he descended the Mississippi, and before he reached Loftus Heights, the site of Fort Adams, in 1798?

42. What was your opinion of his official conduct, and his attachment to his country, after his arrival at Loftus Heights?

43. What were your ideas of his merits in the year 1800? and did not you express pleasure on seeing him restored at that time to the command of our armies?

44. Did not you confide to General Wilkinson, without reserve, your plans and movements, and give him information of high importance, public and personal, whilst engaged on the line of demarcation?

45. Did you not consider General Wilkinson's presence in command, at our Southern frontier in the Mississippi, necessary to the public service, in the years 1799 and 1800, and have you not expressed this sentiment?

46. From your correspondence with General Wilkinson, and observations on his conduct, did you not consider him attached to the interests of his country, and faithful to the trust reposed in him?

47. As far as your own knowledge and obser-

vation have extended, have you not considered General Wilkinson, as a military man, patriotic, zealous, active, and faithful in the discharge of his high duties?

48. Do you know, or have you heard of any specific act of General Wilkinson's calculated to injure his country, or its Government?

49. Has any person, since the conspiracy of Colonel Burr was exposed, applied to you for information respecting General Wilkinson's intercourse or connexion with the Spanish Government? Be pleased to state what passed on these occasions.

50. Has no person applied to you, since Mr. Daniel Clarke's information to the House of Representatives criminating General Wilkinson, for such information as you might possess on the subject, and who was the person or persons?

51. Be pleased to state how it happened that you furnished Daniel Clarke a copy of your letter to General Wilkinson for publication, without the General's letter which produced it; and is your letter, as published, a faithful copy of that you wrote the General, and of that you transmitted to Mr. Clarke?

52. Did you expect that the publication of this letter would serve Mr. Clarke, or injure General Wilkinson?

53. From whom did you receive the information, to which you refer, in October, 1797?

54. At what time did Mr. Power advise you he had carried a sum of money and despatches to General Wilkinson up the Ohio?

JAMES WILKINSON.

J. YEATES.

ANDREW ELLICOTT.

No. 19.—A. Ellicott's deposition.**PENNSYLVANIA, LANCASTER, SS.**

Before me, Jasper Yeates, one of the associate judges of the supreme court of the Commonwealth of Pennsylvania, came Andrew Ellicott, of the borough of Lancaster, and, being duly affirmed according to law, saith: That, before he, this affirmant, left the city of Philadelphia, in the year 1796, as Commissioner on behalf of the United States to carry into effect the Spanish treaty, President Washington communicated confidentially to this affirmant that suspicions had been signified to him of certain citizens of the United States improperly connecting themselves with the Spanish Government, among whom General Wilkinson was mentioned, and requested this affirmant to pay attention to that subject, but in as private a manner as possible, to prevent the increase of suspicions, perhaps ill-founded.

On this affirmant's arrival at Cincinnati, he was informed that General Wilkinson had had several interviews (some of them private) with a Spanish agent or spy, known by the name of Thomas Power, who, it was asserted, had taken a considerable sum of money into the State of Kentucky. This information appeared, at that time, to merit so little attention, that this affirmant made no communication of it to Government.

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Immediately on the arrival of this affirmant at Natchez, he heard the common report in that district, from Green Hutchins and others, of General Wilkinson's being in Spanish pay, but those reports made no impression on the mind of this affirmant: the doubts and suspicions of Colonel Bruin and the late Daniel Clarke had some influence, but never so much as to be the subject of a communication.

About the latter end of May, or beginning of June, 1797, this affirmant was made acquainted with an intended and private mission of the before-mentioned Thomas Power to the States of Kentucky and Tennessee, to induce a separation from the Union; and that he was instructed by the Governor General, the Baron de Carondelet, not to return without having an interview with General Wilkinson. Mr. Power left Natchez, for the purpose above mentioned, on the 5th of June, 1797, which this affirmant believes is the date of his communication to the Department of State on that subject. The information respecting the mission of Mr. Power this affirmant suspects was had from some person employed about the office of the Baron de Carondelet.

In October, 1797, this affirmant received, and probably from the source before mentioned, the outlines of a plan for dismembering the United States, in which the name of General Wilkinson is mentioned as one of the principals. This affirmant was likewise informed that the correspondence between General Wilkinson and the officers of His Catholic Majesty was carried on by cipher, and deciphered by the aid of a pocket dictionary. This circumstance, the affirmant apprehends, is mentioned in his communication in cipher to the Department of State, on that subject, bearing date the 14th day of November, 1797.

In the beginning of November, 1798, a confidential letter of Governor Gayoso's fell into the hands of this affirmant. In that letter, General Wilkinson and several others are mentioned as having been in the pay and interest of Spain. The interesting parts of that letter were reduced by this affirmant to cipher, and accompanied his despatches of the 8th of the month above mentioned, to the Department of State.

About the 16th of October, 1799, Captain Portell, of the royal armies of Spain, who then commanded at Apalachi, informed this affirmant, that at New Madrid, in the year 1796, he put on board a boat, under the direction of Mr. Thomas Power, nine thousand six hundred and forty dollars, for the use of General Wilkinson. This affirmant questioned him whether this money was not on account of some mercantile transaction; he declared it was not. This affirmant entered the nine thousand six hundred and forty dollars on a paper, (now in the possession of this affirmant,) and handed it to Captain Portell, who told this affirmant it was correct.

The witness, being cross-examined by General Wilkinson, saith, on his affirmation, that the instructions of President Washington, before mentioned, to him, were verbal and not written.

To the second interrogatory he answers in the negative.

To the third interrogatory he answers, that the names of Mr. Sebastian and Mr. Brown (not Senator Brown) were also mentioned, on that occasion, by the President to him; and that he was required to examine into the conduct of La Chaise, Volney, and Collet, if he should happen to fall in with them, or either of them.

To the fourth interrogatory he answers in the negative; and that he made no other reports than, as before stated, from the information given to him.

To the fifth interrogatory he answers in the negative, according to the best of his recollection.

To the sixth interrogatory he answers, that he became acquainted with Philip Nolan about the beginning of January, 1797, at the confluence of the rivers Mississippi and Ohio.

To the seventh interrogatory he answers, that Nolan's general character was good, as far as he knew, and that he rendered essential services during the mission.

To the eighth interrogatory he answers in the affirmative.

To the ninth interrogatory he answers that he is strongly inclined to believe that Nolan mentioned to him that the intercourse and connexion of General Wilkinson with the Spanish Government was commercial; and that this made considerable impression on his mind; but he cannot recollect whether or not he has expressed this circumstance to others.

To the tenth interrogatory he answers in the negative, so far as respects General Wilkinson; but that Nolan told him that a deceptive policy and fictitious appearance were necessary, on his part, to protect his enterprises in Louisiana.

To the eleventh interrogatory he answers in the affirmative; and that he made a communication on that subject to the Department of State.

To the twelfth interrogatory he answers, that he knows Thomas Power, and that his general character is bad, so far as he knows, and verily believes.

To the thirteenth interrogatory he answers in the affirmative: and that Power told him when Lieutenant Steele took possession of his boat on the Ohio, that he had despatches and money on board for General Wilkinson, but that the witness paid so little regard thereto, that he did not deem it worthy communication.

To the fourteenth interrogatory he answers in the negative; and that communications from him would have produced no effect whatever.

To the fifteenth interrogatory he answers, that he does not know from whom he received information of Power's mission; but if he be allowed to express his suspicions, he suspects it was forwarded by Daniel Clarke, who, however, never conversed with him on that head.

To the sixteenth interrogatory he answers in the negative.

To the seventeenth interrogatory he answers in the affirmative.

To the eighteenth interrogatory he answers

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that he cannot particularly recollect, but thinks it highly probable.

To the nineteenth interrogatory he answers in the negative; that he neither had time nor deemed it material. The date of the communication was June 5, 1797.

To the twentieth interrogatory he answers in the negative.

To the twenty-first interrogatory he answers that, among others, he exposed the objects of Power's mission to Colonel Rankin, of Kentucky, and Colonel Henly, the agent of the board of war in Tennessee.

To the twenty-second interrogatory he answers in the negative.

To the twenty-third interrogatory he answers, that Gayoso's letter was addressed to Thomas Power, but cannot tell who delivered it to him; that the same was intercepted by means used by the witness, but he declines being more particular as to those means, as his answers may tend to criminate himself. He communicated the particular contents to the Department of State confidentially, and has no objection to the injunction of secrecy being taken off.

To the twenty-fourth interrogatory he answers, by referring to his communication; and that he presumes the letter to be in the hands of Power, from being addressed to him; and, from the connexion between Clarke and Power, the latter may have handed it to the former.

To the twenty-fifth interrogatory he answers that this letter produced more effect on his mind than all his previous information; but that whatever plan had been in contemplation it had been abandoned.

To the twenty-sixth interrogatory he answers, that he is certain it was Gayoso's letter, and saw no other.

To the twenty-seventh interrogatory he answers, that the conversation with Portell arose at the instance of witness.

To the twenty-eighth interrogatory he answers, that Portell, among others, named Lackasang, Sebastian, and Brown, (not the Senator,) as pensioners of the Spanish Government.

To the twenty-ninth and thirtieth interrogatories he answers in the negative; and he did not communicate the particulars to the Government, in consequence of a letter which he received from Timothy Pickering, the then Secretary of State, directing him not to forward it.

To the thirty-first interrogatory he answers, that he was particular in noting the precise sum of money transmitted to the General, because the precise sum had been mentioned to him.

To the thirty-second interrogatory he answers, that the information somewhat affected his confidence in General Wilkinson.

To the thirty-third interrogatory he answers, that this same Portell gave up a military post to Bowles; whether he was dishonored by the Spanish Government he knows not.

To the thirty-fourth interrogatory he answers, that he knows nothing of the intercepting the letter in question; but it was laid before him at the

house of Daniel Clarke, where he lodged, either by Major Minor, Nolan, or Clarke.

To the thirty-fifth interrogatory he answers, that the seal of the letter was broken: as to the rest he knows not.

To the thirty-sixth, thirty-seventh, thirty-eighth, thirty-ninth, and fortieth interrogatories, he answers, severally, in the affirmative.

To the forty-first interrogatory he answers, that he did much business with General Wilkinson of a public nature, and as far as he saw or observed him, his conduct was that of a good citizen of the Union, a soldier, and a gentleman; and, in answer to the forty-second interrogatory, and also to the forty-third, he said his opinion of him continued favorable as above.

To the forty-fourth interrogatory, and also to the forty-fifth, forty-sixth, and forty-seventh, he answers in the affirmative.

To the forty-eighth interrogatory he answers in the negative, further than he has above declared.

To the forty-ninth and fiftieth interrogatories he answers, that no person applied to him for information on the subjects before mentioned, unless Mr. Daniel W. Cox, of Philadelphia, who called on him in the month of January last, and told him the affair between Gen. Wilkinson and Clarke was becoming very serious, and asked him if he was willing to take a trip to Washington, to which the witness answered in the negative. He inquired where Isaac Wayne, Esq., the son of General Wayne, lodged, and was told. The interview did not last above fifteen minutes; the room being full of company at the time.

To the fifty-first interrogatory he answers, that he can give no reason for sending to Mr. Clarke the copy of his letter to General Wilkinson, without a copy of the letter from the General which produced it; that Mr. Clarke was informed, in the first instance, that it was not intended for publication, but, in a subsequent letter, he was told that it might be used before the court of inquiry if it could throw any light on the transactions; he had no intent to injure General Wilkinson thereby, in answer to the fifty-second interrogatory.

The fifty-third interrogatory is answered before, and as to the last, he saith, that it was at the time they were operating on the line in that country, and after General Wilkinson had come into that country.

ANDREW ELLICOTT.

The foregoing deposition, contained in eight pages, and subscribed by Andrew Ellicott and myself, together with the interrogatories therein referred to, was duly taken on the 22d May, 1808, before me.

J. YEATES.

Mr. Power's deposition respecting his correspondence with Gayoso, Carondelet, and Don A. Armesto.

Personally appeared before me, the undersigned, one of the justices of the peace in and for the city of New Orleans, Mr. Thomas Power, who being duly sworn, doth depose: that the several papers hereunto annexed are the original draughts of

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letters written to the several persons whose addresses are there respectively annexed, and that copies of them were sent at, or immediately after, the times of their respective dates, to the persons to whom they were addressed, and that the facts contained in them are true.

To Governor Carondelet a letter, dated at New Madrid, June 27, 1796.

To Governor Gayoso a letter, dated at New Madrid, June 27, 1796.

To Governor Carondelet a letter, dated New Madrid, January 3, 1797.

To Governor Gayoso a letter, dated New Madrid, January 3, 1797.

To Governor Carondelet a letter, dated Natchez, June 4, 1797.

To Don Andres Armesto, Secretary of the Government of Louisiana, a letter, dated Natchez, June 4, 1797.

To Governor Gayoso, a letter, dated at New Orleans, December 5, 1797.

And this deponent further states, that the last-mentioned letter, written by him to Gov. Gayoso, was his report concerning the mission on which he had been sent by the Baron de Carondelet to General Wilkinson and others, as stated in the Baron's letter to him, the deponent, dated May 26, 1797, which report was made to Governor Gayoso, as successor in the Government of Louisiana, to the Baron de Carondelet, who was appointed to, and departed for, the Government of Quito, in the absence of the deponent, whilst employed on the before-mentioned mission.

THOMAS POWER.

Sworn and subscribed before me, in New Orleans, March 18, 1809.

E. FITCH, J. P.

NEW MADRID, June 21, 1796.

SIR: I arrived at this post yesterday afternoon. As this is not a proper time to enter into the details of my journey with Mr. S., nor to communicate to you the observations on the subject to which you have so strongly recommended to me to apply my attention, I shall confine myself simply to relate to you the situation in which I am with respect to the commission which — gave me, to take charge of the money which you sent to the commandant of this post to be sent to him.

I arrived at Cincinnati the 19th of May. — was then at Greenville. Not to give rise to any suspicions, I thought it was prudent not to set out for headquarters without having previously obtained permission to go there from General Wilkinson, who commanded there. This permission did not arrive until the 31st. The 2d of June I went there, and delivered to — the despatches of which Mr. S. had taken charge, and which he had found it impossible to send in any other manner, without exposing them to the risk of falling into the hands of his enemies. I repeated to him the conversation I had with the Intendant and Don Andres on the subject of the money in question, and of the means we had

devised to send it to him without running the risk, which were, that under the pretext of making a commercial voyage, I should ascend the Ohio to the falls, or Cincinnati, with a cargo of sugar, coffee, powder, &c., all in barrels, each one of which should contain a certain quantity of dollars. These precautions appeared to him so wise, that he detained me as short a time as possible, without giving umbrage, and sent me off with verbal orders to receive from the commandant at New Madrid, the money which was placed in his hands for him, and to give him a receipt for it. When I suggested to him that it would be necessary, perhaps, that I should present to the said commandant an order from him, he observed to me that, not knowing how many dollars the said commandant had received, to be delivered to his order, it was impossible for him to specify the sum which I ought to receive; adding that he was surprised that Don Andres had not designated in his letter (which was the only one of those which he had received in which the money was mentioned) what was the sum that had been sent to New Madrid; "besides," he added, "I find myself in so critical a position, and surrounded by so many enemies, that to give you an order in writing would expose myself to infallible ruin, and to the failure of a project which we have labored at so many years." He authorized me even, since he could not give the order in writing, which I asked from him, and the commandant would not have understood it if he had given me one in cipher, to write an order myself in his name, and to present it to the commandant if it should happen that he made any difficulty. Yesterday, as I have already had the honor to inform you, I came here, and this morning I applied to the commandant for —'s money. The only answer he gave was, to show me your official letter, dated the 20th January, 1796, in which you order him to deliver the nine thousand six hundred and forty dollars only to the person who should present an order from the said — to that effect; then I communicated to him what had passed between — and me, and to give him complete satisfaction, and convince him that I had the confidence of —, and his order to receive the money in question, I thought it my indispensable duty to enter with him into certain details which, under any other circumstances, I should not have permitted myself to do. I presume that Mr. Portell will communicate to you all that took place between us, together with a copy of the letter which I thought I could not avoid writing to him. I hope, sir, that you will approve of the conduct which I have pursued in these difficult and embarrassing circumstances, and I beg you to be persuaded that it has been regulated solely by the active zeal which animates me for the service of the King, and which I dare flatter myself will more and more secure to me your confidence. Delicacy prevents my tracing to you the picture of the position of —; the detail which I could make at the same time that it would afflict you, would convince you of the necessity of the steps which I have taken, as well as the purity and

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disinterestedness of my intentions. I have delivered to Don T. Portell to be forwarded to you a note from —. He begged me to inform you that the multiplicity of his occupations did not permit him at this moment to enlarge, but that he would write to you more in detail at my return. I have also put into the hands of the commandant a note of the same from — for the Governor of Natchez. The motives which have guided me in all this affair, which are the desire of not losing any time in flying to the relief of —, and the perfect conviction I have that, in doing so, I enter completely into your views, do not permit me to write to you to the extent which I had proposed; but I will not neglect to do it before my departure for Cincinnati.

I have the honor to be, sir, with the most profound respect and the most perfect devotion, your most obedient servant, &c.

To the BARON DE CARONDELET, &c.

No. 21.

NEW MADRID, *June 27, 1796.*

SIR: I arrived at this place yesterday afternoon. My return has been delayed nearly one month beyond the time I had calculated upon. Mr. S. and I parted at Cincinnati, the 19th of last month; he was then not perfectly in health, and a good deal worsted by his journey, which, owing to the uncommon severity of the weather, had been attended with more fatigue than we expected to encounter. At some future, and not distant period, I will do myself the honor of laying before you some of the particulars of our travels, and the reflections that occasionally pressed themselves on our minds. The situation into which I am thrown, by a concurrence of circumstances, originating in a want of foresight, is far from being pleasant. Indulge me with a few minutes patience, and I will acquaint you with it. S—, at Cincinnati, gave me charge of the letters he had received for —; who was at that time at Greenville. The vigilance and activity of his enemies made it unsafe to trust them to any ordinary conveyance; I therefore resolved to carry them myself; but not to attract the eye of suspicion, and even to remove the shadow of it, I judged it necessary to remain at Cincinnati until I obtained permission from Gen. Wilkinson to visit headquarters, where he commanded. Having obtained it, I proceeded thither without delay, and arrived there the second of June, and delivered the letter. — asked me what arrangements had been made to have the money forwarded to him. I informed him that I had agreed with Don Andres, who appeared to have the management of that business, that I should proceed up the Ohio with the barge in which Lieutenant A. Gregg returned to Massac, with a cargo of sugar, coffee, &c., in barrels, and that, to elude the grasp even of conjecture, the money should be put by small quantities into the barrels; that I was to have the selection of the boat's crew, from among the Creoles and Canadians, living at this place, or on board the King's galleys; and that I un-

derstood the sugar and coffee had been sent up with the dollars. Pleased with these precautions, which to him appeared well calculated to lull suspicion, blind the inquisitive, avert danger, and insure success, he gave me verbal orders to take charge of the money, proceed with all possible dispatch to New Madrid, and return speedily to Cincinnati. The reason for his not giving me an order by writing is obvious: it might fall into the hands of his enemies, an event that was within the scope of possible contingencies, and which would inevitably have involved him, with perhaps some of his friends, in destruction, and, in one moment, have blasted a scheme, in the prosecution of which he had devoted his talents, labor, and time, and have crowned the best founded hopes with the bitterness of disappointment. This he thought was putting too much at stake; and to have given me an order in cipher would undoubtedly have been useless, for it would have been unintelligible to the commandant. To obviate as much as possible these difficulties, he authorized me, if necessary, to write an order myself, and sign his name. I cannot omit another cogent reason which would not allow — to give me such an order, was, that he knew not what sum of money had been sent for him to New Madrid, and could not, therefore, specify what I was to receive. He informed me, that neither you nor the Baron had mentioned in your letters a syllable about said money; and that Don Andres alone writes him, that the money had been conveyed to New Madrid, without specifying the sum. This he was not a little surprised at. I left Greenville on the 9th, and proceeded to this place. This morning I acquainted the commandant with my commission; on this he showed me a letter from the Governor of the province, ordering him to deliver the money only to the person who should present him an order from —; assuring me, at the same time, that neither coffee nor sugar had been sent for the purpose already mentioned. I expostulated in vain with him. Mortified and shocked with the thoughts of what — would suffer by any further delay in this business, which, by a hostile combination of events, has been protracted so long, I thought it my duty to lay before the commandant certain circumstances, which the exigencies of the case alone can warrant. This, however, had the desired effect, by prevailing upon him to accede to my proposals. Enclosed you will receive a copy of what I have written to him. My conduct on this occasion, I hope will meet your approbation. I can with confidence assert, that it has been dictated solely by my zeal for the service of the King, my attachment to —, and a desire to serve him. As soon as the barge arrives from St. Fernando, and everything got in readiness, I will proceed up the river without any loss of time. — expects me by the first of August. I assured him so positively that my absence should not extend beyond that period, that if he is disappointed he will be tormented with the most painful anxiety. I am informed that you have been appointed Governor of the province; permit me to congratulate you

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on the event, and assure you that I rank amongst the foremost who sincerely rejoice at it. Not to detain the boat that is going to St. Fernando, I am obliged to close this, and defer writing to you more at length to a more leisure hour.

I have the honor to be, sir, with respect and consideration, yours, &c.

DON GAYOSO DE LEMOS, &c.

NEW MADRID, *January 3, 1797.*

SIR: I arrived at this post the first of last month. I intended to announce to you this visit in person, but the most contrariant events have prevented me, and do not yet permit me to set out for New Orleans, to render you an account of my mission, in which I have succeeded in spite of the opposition of Wayne. I should have already returned to the capital, if I had myself been the bearer of the letters of —, which I have received some days since by Mr. Nolan. The gazettes, which I have the honor to send you with this, will inform you of the motives which prevented — from putting them under my care. You will see there, also, the manner in which I have been treated by the orders of General Wayne. There are certain details which it would be imprudent to exhibit to the eyes of the public, but which I will communicate when I have the honor of seeing your Excellency.

In the instructions which accompany the letters of —, he gives me the most pressing orders to go without delay to New Orleans, and from thence to Philadelphia, where my presence is indispensable. In consequence thereof, I have made an application to the Commandant Lassus for the barge in which I made my last voyage, which he has put at my disposition; and I should have set out the 22d of December if a frost had not happened, the hardest ever known in this country, which froze the Mississippi the distance of several toises from its banks. The river is still in the same state, and carries down so great a quantity of cakes of ice that, to undertake to descend it in any kind of vessel, except a little boat, would be exposing one's self to inevitable shipwreck. As soon as the rigorous cold, which yet prevails, shall have ceased, and the river shall be cleared of ice, so that it may be navigated, you may be persuaded that I shall not delay my departure an instant. If I do not send the letters of —, it is because I do not wish to go beyond his orders. He enjoined me, in the most express and urgent manner, not to part with them until I could deliver them to you in person. I dare flatter myself, that when I shall have imparted to you the motives of my conduct in all this business, which is so very difficult and delicate, you will not refuse me your approbation; at least I do not hesitate to assure you that my intentions merit it.

I believe it is essential that you should know that the suspicions which I communicated to you, on the subject of General Collot, were but too well founded. He is sent by "Mr. Adet to fulfil the mission in which Mr Egren failed." The

person from whom I have this refused to accept it. To tell you who it is, at this time, would be risking too much. When I shall have named him, you will not doubt of what I advance. This same person has promised me that, at my return from Philadelphia, he would communicate certain details, very interesting for this province. As I hope to be in town almost as soon as this courier, I will no longer abuse your patience, and take up your precious time.

I have the honor to be, with devotion and respect, your most obedient servant.

BARON DE CARONDELET.

No 23.

NEW MADRID, *January 3, 1797.*

SIR: I arrived at this place on the first of last month, and have been detained here by a concurrence of unlucky circumstances. — had ordered me to stay here until Nolan should arrive with his letters. Mr. Nolan did not arrive before the 17th or 18th of December. I was ready to set off on the 22d. when the severest frost ever known in this country suddenly froze the river for a great distance from its banks. It still continues frozen, and such vast quantities of ice float down the part that is not frozen, that, to attempt to go down it in anything but a small canoe, would be rushing into the jaws of death. I enclose you two newspapers, by which you will learn the manner in which I have been treated in the United States, and why — did not venture to trust me with any papers. I am happy, however, to acquaint you, that I delivered my charge in safety. I do not transmit you —'s letters, not to depart from his orders, which are, not to let them out my hands upon any consideration, but to deliver them personally to you; and, besides, I expect to be with you almost as soon as the bearer of this. After I shall have explained to you, at Natchez, the motives of my conduct through the whole of this delicate and difficult business, I flatter myself it will meet with your approbation.

I have the honor to be, with respect, your Excellency's most obedient and most humble servant.

His Excellency Governor GAYOSO.

W.—Deposition of Elisha Winters.

I, the undersigned, certify and declare, that I was an inhabitant of Kentucky in the years 1788, '89, and '90; that General Wilkinson was then engaged in commerce between Kentucky and New Orleans; that the General made a small shipment of tobacco, in the Spring of 1791, not more than two boats, under the care of Captain Wilson, one of which sunk on the Ohio, and two or three hogsheads of tobacco landed on the bank; the other boat landed in New Orleans a few days before I arrived in that port, and if there were any more arrivals (the property of the General) it was unknown to me. I further state that, in the year 1791, I became a citizen of New Orleans, and that the General might have made a shipment to

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that part in 1792, but it was not probable, otherwise I should have had some knowledge of it. But this is improbable, because in the year 1790 I was in New Orleans. The residence of Governor Miro was then about two leagues from the city; a message came to me that the Governor wished to see me at his house the next day. Accordingly I waited on his Excellency. He made strict inquiry concerning the General, and whether there were any tobacco coming or not, or whether the General was coming himself.

I answered that I knew nothing of the General's coming, nor of any tobacco on its way. He then said that the General had treated him very ill, and if he could not have complied with his contract, he ought to have sent a man in a canoe with information. He then repeated it again, with great warmth, saying, I will not write him, but you must tell him, from me, that he has behaved very improperly, and my disappointment is very great. This was expressed with much passion.

Governor Miro took his departure from New Orleans in the year of 1792. To my knowledge there was no tobacco received for the King's use, after the arrival of the Baron Carondelet. A proclamation was issued, before the departure of Governor Miro, that no more tobacco would be received in the King's stores for his Majesty's use.

I, the undersigned, further state, that, about the year 1796, I was on a visit at New Madrid, and, at the house of the commandant, heard him make some observations which I could not understand, and applied to the interpreter for an explanation; he answered that the commandant had in his chamber a Spanish lady going to General Wilkinson. This raised my curiosity. I made further inquiry, and found it to be a chest of dollars (as much as four or five men could handle) from the Spanish Government to General Wilkinson. This I thought strange indeed. On being fully satisfied, in a very short time after, I took my departure for the falls of Ohio. After having been about four or five days on my voyage, I met a certain Mr. Power (an old acquaintance) descending the Ohio, who informed me that he was from headquarters, on his way to New Madrid, for a cargo of groceries. This convinced me that what I had learned at New Madrid, was true, and that he was on his way to gallant the Spanish lady to headquarters. I then determined to make all possible despatch to the falls in order to give information of the approach of so valuable a creature. Accordingly, on my arrival at the falls, I immediately gave information to General Wayne that I had discovered, at New Madrid, a royal chest on its way to the Army of the United States, and that this chest, together with the despatches that accompanied it, would be important, and that if he would send to me in Lexington a confidential person, I would communicate to him the particulars. Accordingly, in a very short time. I was visited by a Major Swann, to whom I communicated the whole affair, and assured the major that if im-

mediate and proper steps were taken to meet Mr. Power, on the Ohio, an important discovery would be made. The major immediately returned; and, as I have been informed, a certain Lieutenant Steel, was dispatched on this business, and met the aforesaid Power on the Ohio, but did not search his boat, and permitted him to proceed on his voyage. I afterwards saw my letter of information to General Wayne, in the War Office in the city of Philadelphia, in the hands of Mr. McHenry, then Secretary of War.

The deponent further states that he was led to make particular inquiry of the Spanish interpreter at New Madrid, as aforesaid, from the circumstance of seeing a post, which appeared rough and newly made, apparently supporting the upper floor of the room in which the commandant then was.

ELISHA WINTERS.

WASHINGTON COUNTY, ss.

On this 16th April, 1810, before the subscriber, a justice of the peace for said county, appeared Elisha Winters, and made oath, in due form of law, that the above and foregoing facts are true to the best of his belief and recollection.

Sworn before

DANIEL RAPINE.

No. 25.—Bradford's affidavit.

Sometime between the 10th and 20th days of January, 1807, in conversation with General Wilkinson on the subject of publications in the *Western World*, I expressed a belief that some of the charges there brought against him (the General) were true; and remarked that they were generally credited in Kentucky. I noticed the immense sums of money he expended, as tending to impress a belief that he had some other resource than his pay and emoluments as Commander-in-Chief of the Army. I informed him that I had heard it very confidently asserted that the money he paid to John McDonough for sugars, when the Americans took possession of this country, was received from the Marquis de Casa Calvo. The General declared the report false, and raised to ruin him; that he had received the money from Lieutenant Taylor for extra services. Shortly after this conversation with General Wilkinson, I had one on the same subject with Governor Claiborne. He told me that when he first heard of the purchase of sugars by the General, he was inclined to believe that he had come by the money, with which he made the purchase, corruptly; but that he had an explanation of the affair with General Wilkinson, who had removed every suspicion from his mind, and added, that the General received the money from Lieutenant Taylor, then military agent, for extra services in running lines.

Since writing the above I have shown it to Governor Claiborne, who agrees to the facts stated with this correction: that, instead of saying he "was inclined to believe that he had come by the money, with which he made the purchase, corruptly," he believed "all was not right." And that instead of saying, "the General received the

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money from Lieutenant Taylor, then military agent, for extra services in running lines," he said, "the General received the money from Lieutenant Taylor for drafts on the United States;" and he "had heard that the drafts were for extra services in running lines and making Indian treaties;" that he held these conversations frequently, and recollects one on this subject with the undersigned in the Winter of 1807.

JAMES M. BRADFORD.

Sworn and subscribed to, at the city of New Orleans, this 17th day of March, 1809, before me,
SAMUEL D. EARLE, J. P.

I. B.—Deposition of Isaac Briggs, April 14, 1810.

WASHINGTON CITY,
13th of the 4th month, 1810.

Shortly after I arrived in the Mississippi Territory as surveyor of the public lands of the United States, in the Autumn of the year 1803, William C. C. Claiborne, then Governor of the said Territory, told me that Daniel Clarke had some time before made to him a proposition to put himself (Claiborne) at the head of all the force he could raise, march to New Orleans, and take forcible possession of that city. That \$100,000 would be at his (Claiborne's) disposal; and that General Wilkinson, with all the power in his command, would co-operate in the enterprise; and that soon afterwards, Richard Reynold Keen showed him (Claiborne) a written but anonymous paper, which he believed to be in the handwriting of General Wilkinson, and which contained an assurance that the General would co-operate in such an enterprise. This information the said Governor Claiborne repeated, and Hose Browse Trist, since deceased, confirmed to Robert Williams, late Governor of the Mississippi Territory, and myself, in the city of New Orleans, in the second month of the year eighteen hundred and four.

About the beginning of the tenth month, in the year 1806, at the town of Washington, in the Mississippi Territory, I told General James Wilkinson I had been informed that he had received, previously to his leaving New Orleans in 1804, from the officers of the Spanish Government, about ten thousand dollars of a late Mexican coinage, in Campeachy bags. He replied it was fact; he had received about that sum, in the manner stated, and from the Spanish officers, but that it was due to him on account of former mercantile contracts with the Spanish Government.

Having never taken any notes or memorandums, the above statement is from memory.

ISAAC BRIGGS.

WASHINGTON COUNTY, ss:

On this 13th of April, 1810, before the subscriber, a justice of the peace for said county, appeared Isaac Briggs, and affirmed that the facts stated in the foregoing instrument of writing are just and true, to the best of his belief.

Affirmed before DANIEL RAPINE.

Papers relative to the second point of inquiry.

No. 34.—Mr Power's narrative and deposition respecting his mission in 1795.

In the year 1795 Governor Gayoso ascended the river Mississippi, commanding the King's galleys and troops, destined to erect and garrison the fort of San Fernando de las Barrancas, (Chickasaw Bluffs,) where he remained, I believe, about two months, or perhaps longer; and after having, by his presence, given spirit and activity to the works, proceeded to New Madrid. Immediately on his arrival, which was in the beginning of September, 1795, he informed Captain Don Thomas Portell, the commandant, that he had despatches of the greatest importance to forward to Kentucky, and desired him to procure a person on whom he could depend to take charge of them. Portell spoke to me on the subject. As travelling was then my ruling passion, I proposed, without hesitation, to undertake the journey. It may not be improper here to observe, that I had already been sent by said Portell to Kentucky on two occasions; the first, at the beginning of 1794, to keep an eye on the movements and progress of what is generally known by the name of Genet's expedition against Louisiana, headed by Clarke and La Chaise; and the second, to accompany the Spaniards that had murdered Mr. Henry Owens, the bearer of General Wilkinson's \$6,000, concerning which I have given my affidavit under this date. As I had acquitted myself of my commissions much to his satisfaction, he had recommended me strongly to the Governor.

Without loss of time a pirogue, hands, and provisions, were got ready; and I set off from New Madrid on the 6th of September, and reached the Red Banks on the sixth day. Here I was detained by a bilious fever until the 24th, on which day I set off by land and arrived at Cincinnati on the 3d of October, having delayed one day at Lexington. The day after my arrival I delivered my despatches to General Wilkinson, agreeably to my orders. When I left New Madrid, I was only half in the secret of the object of my mission; but the General disclosed the whole plot to me, which was a separation of the Western from the Eastern States, such as appears in Judge Sebastian's trial. After some days' stay at Cincinnati I proceeded up the Ohio as far as Gallipolis, in obedience to General Wilkinson's orders, which I had been instructed by Gayoso implicitly to follow. I returned to Cincinnati on the 8th of November, and left that place on the 14th with Wilkinson's answers, having occasionally dined with the General, and having had several nocturnal conferences with him in Fort Washington.

In his letter in cipher to Gayoso, September 22, 1796, he refers him to what I should verbally communicate to him, which was as follows: That I must immediately return to Red Banks, where I should meet the following gentlemen, or at least two of them, viz: Messrs. Benjamin Sebastian, Henry Innes, John Murray, and George

Brigadier General James Wilkinson.

Nicholas, whom I was to convey to the mouth of the Ohio, there to have an interview with Gayoso. I have already mentioned that the plan of separation was such as appears in Sebastian's trial; on which subject Wilkinson directed me to lay the following observations before Carondelet and Gayoso. However, before I proceed any further, it will not be improper to state that Wilkinson received a letter some time after from Gayoso, expressive of much discontent and reproach for having imprudently communicated to me the whole extent of their plots. This I had from Wilkinson himself. [Here follow the observations.] In this I am confident that I am perfectly correct, as I committed them to paper at the time, and which I will literally copy: "The various channels through which the Western country is to receive foreign commodities. Which the most advantageous? 1st. by the river St. Lawrence and the lakes; 2d. By New York, Hudson, or North river, and by Oswego into the lake; 3d. By Baltimore, up the Susquehanna, a portage to —, that empties into the Alleghany, down into the Ohio; 4th. By —, up the Potomac, portage to Cheat river into the Monongahela, and down the Ohio; 5th. By New Orleans and the Mississippi, &c. An intelligent person ought to be sent to these different places, and obtain every possible information on the spot concerning the difficulty or facility attending their navigation, &c., and, by comparing them, see which merits the preference. It might, perhaps, also be the means of artificially giving the advantage to the Mississippi in case it does not possess it naturally. The free navigation of the Mississippi injurious to the future population of Louisiana; because numbers who would have emigrated to it for the sake of enjoying the privileges of Spanish subjects, and from which foreigners were excluded, would now possess those advantages without moving to it.

"To ascend the Ohio with a cargo, the profits on which must be a perquisite for the person entrusted with it. By these means the following advantages will be obtained: The money that it may be judged proper to introduce into the country will be kept out of sight, even of the crew, and the real object of the expedition kept secret. It may draw the confidence of the people, and point out the channel through which they must receive foreign commodities. The cargo ought to consist of gunpowder, sugar, coffee, brandy, wine, segars, &c. The mouth of the Ohio must be formidably fortified, and works erected of sufficient strength to arrest the progress of an army during a whole campaign, and thus gain one year. Kentuckians must be employed in raising these fortifications. This will help to do away all national distinctions and prejudices, and to conciliate and fraternise the two nations. The cannons wanted may be cast in Kentucky. A bank must be established in Kentucky, with a capital of one million of dollars; the directors to be chosen among the most distinguished and leading characters in the country. We shall thus secure a majority in the councils and assem-

blies of State. The fort of San Fernando must not, upon any consideration, be given up; for this would lessen the power and importance of Spain, and the Americans would immediately take possession of it. As the seeds of an approaching rupture are already cast, it is proper that all the necessary preparations should be made in the province, by building forts on the frontiers, increasing the number of Spanish agents in Kentucky, and depositing funds in the country, to be enabled to face contingencies. General Clarke and his adherents, who are in the pay of the French Republic, must be bought into the service of Spain. The French may hereafter be prevailed upon to take produce of Kentucky and the Western country, for the use of their colonies. It is absolutely necessary that military magazines should be formed at New Madrid, well provided with arms, ammunition, and other military stores. A watchful eye must be kept upon Daniel Clarke, senior, and his nephew Daniel Clarke, Minor, Beauregard, Du Fort, Morales, and their friends. They must never be trusted in anything that relates to Wilkinson and —.

"Pounds of sugar mean hard dollars; Campbell, Carondelet; McCullough, Gayoso; Marietta, New Orleans; Post Vincennes, Philadelphia; store, fortification; Monongahela, mouth of the Ohio; words, war; silence, peace; cash, Spain; corn, France; pork, England; whiskey, United States; pounds of coffee, arms; segars, men; bread, ammunition."

Immediately on my return to New Madrid, a large pirogue was purchased, and everything provided that could contribute to the accommodation of the gentlemen; and I again set off for Red Banks towards the beginning of December. On my arrival at that place, I there found Mr. B. Sebastian, who had taken passage in a flat boat, bound to New Madrid. On my inquiring for the other gentlemen, he told me that, as Murray had for some time past been in a habitual state of inebriation, it was not judged proper that he should be of the party; that Mr. H. Innes could not leave his home, owing to some family concerns, or to indisposition, I do not recollect which; and that the absence of Lawyer Nicholas would excite a degree of suspicion that might defeat the object they had in view; but said that he was fully authorized to treat with the Governor in their name. We accordingly proceeded to the mouth of the Ohio, he in the flat, myself in the pirogue. We arrived in a short time on the Mississippi. There we found Gayoso encamped, opposite the mouth of the Ohio, where he had amused himself in building a small triangular stockade fort, with the view of impressing the public with the idea that he had no other object in contemplation. Here the bad weather detained us a few days; during which time we had the visit of Julian Poydras and Mr. Bernoudi, jun., who were descending in a flat to New Orleans. We arrived at New Madrid, I think, on Christmas day, and remained there but a short time, and continued our route to Natchez; Sebastian, with the Governor, in his galliot, and

Brigadier General James Wilkinson.

myself with Mr. Vanden Benden in a King's barge. After an ordinary passage we arrived at Natchez, where we were hospitably entertained in the Government house. I stayed there but a short time; then proceeded to New Orleans, leaving Sebastian at the Governor's. They both reached New Orleans together a few days after me.

Mr. Sebastian and myself left New Orleans, if I recollect right, in March, or the beginning of April, having taken passage for Philadelphia in the brig *Gayoso*, Captain Jared Arnold, where we arrived after nineteen days' passage. We remained but a few days in Philadelphia, and proceeded to Shippensburg in the stage. Here we put our baggage in a wagon, and, for numerous reasons unnecessary to expose, continued our journey to Red Stone on foot. At Red Stone we embarked in a flat, bound to Cincinnati, where we arrived on the 17th or 18th of May. The next day after our arrival, Sebastian took passage in a flat for Louisville. I remained at Cincinnati. On the 20th I wrote to General Wilkinson, who then had the command of the army, owing to General Wayne's absence, soliciting permission to travel by the line of forts to Greenville, and pursue my route from thence to the Illinois, by Post Vincennes. The following is a copy of his answer:

"HEADQUARTERS, GREENVILLE,
May 25, 1796.

"SIR: The day before yesterday I had the honor to receive a letter from you, under date of the 20th instant, in which you request leave to visit this place, and to proceed by St. Vincennes and the Illinois to New Madrid. Permit me, sir, to observe, that this precaution was unnecessary; at a time when the United States of America are, happily, at peace with all the world. In this enviable situation, the officers of the American army have no concealments to make, and, therefore, our camps and our forts are free to the ingress and egress of all persons who deport themselves with propriety. I beg you, sir, to believe that, upon an unpleasant occasion, to which you are pleased to refer, my conduct was directed more by the delicacy of my own situation than any sense of your demerit. Neither my sympathies nor my antipathies have ever gained such an ascendancy over my reason as to incline me to condemn, upon hearsay, or adopt the prejudices of any man. I thank you, sir, for the trouble you have given yourself in bringing forward the segars committed to your care by my very worthy friends, Governor Gayoso and Don Andres.

"And have the honor to be, with due consideration, sir, your most obedient servant,

"JAMES WILKINSON.

"Mr. THOMAS POWER."

Having obtained the General's permission to go to Greenville, Major Mills, Adjutant General, procured me a horse from the quartermaster to carry me to Greenville. There I stayed five or six days, quartered on Captain Prior, and Lieutenant Charles Hyde. As soon as I had received the General's instructions, and answers to my

despatches, I returned to Cincinnati; for my journey to the Illinois by Vincennes was a device to avoid curiosity. I lost no time at Cincinnati, but proceeded with all possible haste to New Madrid, where I took charge of Wilkinson's nine thousand six hundred and forty dollars. For the details of the rest of this expedition I refer to my deposition (No. 17) taken before Mr. Eliphalet Fitch.

THOMAS POWER.

NEW ORLEANS, March 18, 1809.

Personally appeared Thomas Power, and did solemnly swear that the preceding narrative is just and true.

E. FITCH. J. P.

G. Y.—General Wilkinson's letter to Gov. Gayoso.

FORT WASHINGTON, 7 bre. 22, 1796.

Ill health, and many pressing engagements, must be my apology for a short letter. I must refer you to my letter to the Baron for several particulars, and for a detail of my perils and abuses. I must beg leave to refer you to our friend Power, whom I find of youthful enterprise and fidelity; he certainly deserves well of the Court, and I do not doubt that he will be rewarded.

What a political crisis is the present! and how deeply interesting in its probable results, in all its tendencies, and thereby must hope it may not be carried into execution. If it is, an entire reform in the police and the military establishments of Louisiana will be found immediately indispensable to the security of the Mexican provinces. I beg you to write me fully on this question, in cipher, by Power, whose presence in Philadelphia is necessary, as well to clear his own character, attacked by Wayne, as to support the fact of the outrage recently offered to the Spanish Crown, in his person, and to bring me either the person or the deposition of a man now under your command, who had been suborned by Wayne to bear false witness against me, and afterwards, for fear he should recant, bribed him to leave Kentucky. Power will give you the perfect of this infamous transaction; and I conjure you by all the ties of friendship and of policy, to assist him on this occasion. If Spain does not resent the outrage offered to Power, in the face of all Kentucky, my letter to the Baron will explain the motives which carry me to Philadelphia; from thence I will again write you. Power will explain to you circumstances which justify the belief of the great treachery that has been practised with respect to the money lately sent to me. For the love of God, my friend, enjoin great secrecy and caution in all our concerns; never suffer my name to be written nor spoken. The suspicion of Washington is wide awake. Beware of Bradford, the Fort Pitt refugee; he seeks to make peace; there are spies everywhere. We have a report here that you are appointed Governor of Louisiana; may God grant it, as I presume the Baron will be promoted.

I am ever your affectionate friend,

W.

Brigadier General James Wilkinson.

NATCHEZ, 6 de Febrero, 1797.

Es copia de una carta en ciphra que he recibido del General Wilkinson.

M. GAYOSO DE LEMOS.

En un papilito a parte dice lo siguiente.

This will be delivered to you by Nolan, whom you know, is a child of my own raising, true to his profession, and firm in his attachments to Spain. I consider him a powerful instrument in our hands, should occasion offer. I will answer for his conduct; I am deeply interested in whatsoever concerns him, and I confidently recommend him to your warmest protection.

I am evidently your affectionate,

WILKINSON.

Es copia: M. GAYOSO DE LEMOS.

No. 35.—Instructions from General Wilkinson to Thos. Power, in the handwriting of P. Nolan.

To proceed to Gallipolis to make application and propositions to the leading characters there, to induce them to remove to New Madrid, with all the French of that settlement; to urge this point in such measure as to attract the attention of the public officers there, whose report to the Executive will immediately follow, and will account for his frequent missions to that place. To return as rapidly as possible, to load with flour, and proceed without delay to New Orleans. In the route, to see Newnan, and to enter on the subject of his desertion; to inform him of the facts which have transpired, and the opinions prevalent; to urge his return, as the request of all his friends; to assure him of safety, and of such reward as he may demand; also, that being pardoned for the imputed offence, no further process can lay against him for the same; that the oath which he was suborned to take, being made while in duress, is, in itself, a nullity, and cannot be offered in crimination of him. It will be necessary that he should take down his examination, founded upon the interrogations furnished him, and, if they prove material to the crimination of Wayne and his associates, then he must embark N——n under a fictitious name at New Orleans, for Philadelphia; and, having arrived there, must lodge him in some retired place, and call upon me, under cover of night, for further advice; you will hear of me at —. If N——n cannot be prevailed upon to return under dispositions favorable to my views, then, let his declaration, on oath, be circumstantially taken to all the points enumerated in the interrogatories, in the presence of Dr. Howers, Colonel Bruin, Daniel Clarke, or any three or four of the most notorious, and of the most respectable Americans of the Natchez district; let these gentlemen certify to two copies, and to the original, and let them be transmitted to me through different channels. P. to take charge of the original. Mr. P. must take with him credentials from the Government of Louisiana, acquitting him of any political connexion or agency injurious or hostile to the interests of the United States. He must carry to Philadelphia testimonials of his family and char-

acter, addressed to as many of the native respectable merchants of that city as possible; these may be readily procured from New Orleans and the Havana.

It is indispensable that P. should meet me in Philadelphia; for the rest, let him rely on my friendship and address. To collect from Bradford every information respecting the Pittsburg insurrection which may be employed, should it be found necessary, to disgrace certain persons; to bear no paper about him which carries my name upon it.

Employ the \$640. *avec le cargaison*, to pay expenses, and lay in a cargo of best flour, *pour la ville*, where it will help to reimburse. In making your settlement, take care to secure me the \$640 advanced, and bring them with you. I have urged, peremptorily, the necessity of your presence at the metropolis. Bring me N——n, if, upon examination, you find his presence of more consequence than his deposition, when taken as directed. I believe he was caused to desert by O'Hara; probe him to that point. You are to bring me papers, but my name is not to be written or spoken. You must do the needful below to expose and detect past treachery or indiscretion, and to prevent either in future. I have referred particularly on this head. I shall expect you impatiently. Should I continue where I am, I shall wish you near me; if I cross the water, you are to accompany; bring every credential of family and fortune, to repulse the insinuations of —. Trust something to my address, and put faith in my honor and affections to the grave.

No. 36.—Letter from Thomas Power to the Baron de Carondelet, dated

NEW ORLEANS, May 9, 1797.

Enclosed your Excellency will receive the documents relative to my last confidential expedition, made by your Excellency's order in the Ohio, of which I have already given you a narrative as well verbal as in writing. The remarks which follow will serve for its elucidation.

I left New Madrid with ten oarsmen and a patrol; the provisions which were delivered to the crew, were biscuits for a month, meat for a month, rum for fifteen days.

To disguise, as far as possible, the true object of the expedition, we had hired the people, under the same conditions as are common in commercial voyages, so that the monthly rations allowed by the King did not even last fifteen days. The reason why I issued to the crew two extraordinary allowances of liquor daily, counting from the day we left Red Bank until our arrival at the falls of Ohio, was to encourage them to row with vigor, that Lieutenant Steel, whom I thought in pursuit of me, might not again take me, because, had I fallen into his hands a second time, I was lost. As respects the one hundred and fifty dollars, for the horse which I bought to make the journey from Frankfort to Cincinnati, and the expenses which accrued on this journey, they were indispensable for a double motive: to carry my com-

Brigadier General James Wilkinson.

plaint against Steel, for having offered so great an insult to our flag, and to give advice of my arrival to the American General, Mr. James Wilkinson, that he might take the necessary measures. I have to add, that the motive which has induced me to dispose of the merchandise which I received of I. and A. Hunt, in exchange for the coffee and sugar, was to give credit to the opinion which I myself had raised, that I had come to purchase horses to take to Natchez, in order to better the breed in that district. Besides this, as the occurrence with Steel had awakened suspicions, excited apprehensions, and attracted the attention of the inhabitants of the Western country, all had their eyes directed on me, so that I found myself obliged to do something which should please them, that it might serve me as a safe conduct to quit those parts, which, by this means, I happily effected. The mare, of which the statement No. 1 makes mention, was lost on my arrival at New Madrid, in the woods, where she died of thirst, the excessive frosts having entirely frozen up the waters. The stud horse I delivered on going down to Don Manuel Gayoso de Lemos, but he returned him to me a short time since, and I have him carefully kept until your Excellency is pleased to make some disposition respecting him. Of the sum of \$9,640, which I was to deliver to Mr. James Wilkinson, I have only delivered him nine thousand, having retained the \$640 to avoid the unfortunate result with which I was threatened, and likewise to provide what was necessary for the crew during the voyage. The following are the documents which are enclosed:

No. 1. The account sale of the merchandise laden, &c.

No. 2. Account of expenses for the crew.

No. 3. Account and expenditure of the \$640.

No. 4. Statement which shows in what manner the merchandise has been made use of.

No. 5. Statement which shows what is due to me.

No. 6. Invoice of I. and A. Hunt.

All which were accompanied with the obligation of Mr. N. Welch for \$105, and the two receipts of Mr. Boyd, the one for \$466½ for the value of a horse, the other for \$200, for the value of a mare. The balance which appears in my favor, according to the statement Nos. 3 and 4, as well as the account of my monthly pay for fourteen months, I beg your Excellency will be pleased to direct that it should be remitted to me, or delivered to Mr. Philip Nolan, to whom I have given advice on the subject.

Mr. James Wilkinson, in the instructions which he has given me, directs that I should present to your Excellency the account of the expenses to which the \$640 have been applied, (and I have done so in the statement No. 3.) that he may be reimbursed said amount. The instruction says, "in making your settlement take care to secure me the six hundred and forty dollars advanced, and bring them with you." Although he charged me to take them to him in the United States, I am of opinion that no one is better suited to remit them than Mr. Philip Nolan, as your Excellency

has now resolved that I should remain in this province; your Excellency will please to suffer me to assure you that in every particular, I have acted with prudence, with honor, and the disinterestedness of an honest man, as well as with the zeal and fidelity which the King's service requires, and with the vigilance and activity which the arduous enterprise I was engaged in demanded. I deserve nothing, and expect nothing, for having fulfilled the obligations of a good subject to His Majesty, unless your Excellency will be pleased to procure me opportunities of displaying the inclination I feel of sacrificing myself for the prosperity of my country and glory of my Sovereign. God preserve your Excellency many years.

THOMAS POWER.

No. 37.—Answer to the foregoing.

NEW ORLEANS, May 28, 1797.

There remains in my hands six documents relative to the account of the last expedition which you made in the Ohio, and which you enclosed me in your official letter of the 9th instant, and they are as follows:

No. 1. Account sales of the effects laden at New Madrid.

No. 2. Another, of the expenses of the crew.

No. 3. Account of the expenditure of the \$640.

No. 4. Statement which shows how the merchandise has been employed.

No. 5. Statement which shows the balances due to you; and

No. 6. Original invoice of I. and A. Hunt.

On account of it there will be delivered to you \$1,000, that you may make preparations for your journey, in the new commission which I entrust to your care.

It is necessary to see how you can get rid of the horse, with the least possible loss, as well as to recover the debt of Nicholas Welsh, or have it recovered, for which purpose I enclose you his obligation; and likewise the proceeds of the merchandise, which, to the amount of \$353, you delivered to Don Pedro Derbigny, in order to give an account to the Court without these balances, which caused trouble, and appear speculations, when they are no more than the effect of necessity, and the difficulty which these commissions cause, in places where there are no resources, when you have to deceive the vigilance of spies.

As you finish these matters, and as soon as your present commission is fulfilled, you will give me advice.

DE CARONDELET.

To Mr. THOMAS POWER.

We whose names are hereunto subscribed, do severally swear and declare, that we were well acquainted with the handwriting of the Baron de Carondelet, late Governor General of the province of Louisiana, and that we have no doubt that the letters hereunto annexed, dated severally the 23d of April, 1797, and 26th of May, 1797, are in the proper handwriting of the said Baron de Carondelet, as also the signature to the same.

Brigadier General James Wilkinson.

And we do also declare in like manner, that we are acquainted with the handwriting of Don Andres Armesta, late Secretary of the Government, and that the letter hereunto annexed, dated 28th May, 1797, is in the handwriting of the said Don Andres, and the signature thereunto affixed is in the proper handwriting of the said Baron de Carondelet.

P. PEDESCLAUX, *Not. Pub.*
S. DE QUINONES, *N. P.*
N. BROUTIN, *N. P.*
J. J. BLACHE,
G. DUBUYS.

Signed in my presence, by Pierre Pedesclaux, Stephen de Quinones, Narcissus Broutin, J. J. Blache, and G. Dubuys, and duly sworn before me, this 17th March. 1809.

ELIPHALET FITCH,
Notary Public and J. P.

No. 38.

NEW ORLEANS, May 26, 1797.

I have received, sir, your letters of the 5th, of the 7th, 12th, 13th, and 10th of May, and I briefly answer them in fulfilling your wishes, because I entrust to you a commission of the greatest consequence, which does not compromise you in any manner, it being, however, well understood that you carry with you no paper which may make mention of it, as it procures you a sum of money, which you state to me you are in need of; in fine, it renders you independent, and procures me the opportunity of recommending you to the Minister of State. No one will be informed of it, not even the Intendant; there will be none but Don Andres and myself who will be acquainted with the true motive.

General Wilkinson having informed the Commandant at New Madrid that he is getting ready a detachment of the Army, which he has at his orders, to take possession of the forts of Natchez, and Walnut Hills, in conformity to the second article of the treaty of friendship, limits, and navigation, concluded with Spain, hoping that it will be faithfully observed; and it having appeared proper to him to give this advice, in order to prevent any misapprehension of the motives which direct this movement of their troops, &c. it is very natural that I should answer him that, in the first place some doubts have arisen respecting the manner in which the posts are to be withdrawn on the part of Spain; that is to say, if they ought to be delivered with their fortifications and edifices, as the United States understand it, or simply evacuated, razed, and abandoned, as I comprehend it, avoiding in this way to compromise us with the nations who have ceded to us the territories of the Bluffs, Walnut Hills, and Confederation, under the express condition that we should build forts there, to prevent their lands being taken from them. I had resolved, in regard to this point, to await the decision of the Court, or the Minister Plenipotentiary near the United States, as well as theirs; but being informed shortly afterwards that the above mentioned Minister had informed

the President that an English expedition had left Montreal with the intention of attacking the Illinois, had wintered on the lakes, and was to traverse the territory of the United States, in order to attack Upper Louisiana, and had demanded that, in virtue of the last treaty, the said States should oppose, by efficacious means, this violation of their territory, I then determined to retain the forts of Natchez and Walnut Hills, to place Lower Louisiana in safety, until the most efficacious measures, on the part of the United States, shall put it in safety from this danger, and until a sufficient corps of troops, commanded by an officer of superior rank, should present himself to take possession of Natchez, maintain good order there, and restrain the robberies and difficulties with the Indians, conformable to the fifth article of the treaty cited by the said General; that, in consequence, I am ready to evacuate the posts of Natchez and Walnut Hills, on the arrival of the detachment which he announces by his letter, dated from Fort Washington, as soon as ever the Congress have agreed with the Minister Plenipotentiary of His Majesty on the way in which the said evacuation is to take place; but until this decision is made, I request he will suspend the march of the said detachment, whose presence could not fail to disturb the tranquillity of the province, and perhaps the good intelligence which I wish to maintain between the subjects of the two Powers. You will be the bearer of this letter, and if you believe you can prevent the American detachment from descending the river, you will deliver a duplicate of it to the commandant, requesting him to wait new orders from his general.

The second object of your commission, which no one must penetrate, and which for this reason you must retain in your memory, is to sound and examine the dispositions of the people of the Western States, whose militia it is reported to me has received orders to be ready to march on the first advice; and in case that should be true, you will inform the Commandant of New Madrid of it by the first opportunity you find. But in order not to render yourself suspected, you will content yourself with putting the date of your letter at bottom, and will only treat of indifferent subjects. If hostile preparations are making, you will put before your signature a stroke (une barre) like that which freemasons use, and which you see at the bottom of this letter; the number of dots above will designate that of a thousand men, and that below the hundreds, of which this expedition is to be composed; you will point out the number of pieces of artillery, by a number of points placed in your flourish (parafe) according to your custom, the points on the left signifying tens, and those on the right units. This letter will be immediately sent me by the Commandant of New Madrid, in consequence of the orders I shall give him. You may even mention it to him in yours, saying simply saying that it is proper I should be informed, without delay, of your arrival on the Ohio, and that he should send me your letter by express. On your journey you will give to understand adroitly to those persons

Brigadier General James Wilkinson.

to whom you will have an opportunity of speaking, that the delivery of the posts, which the Spaniards occupy on the Mississippi, to the troops of the United States, is directly opposed to the interests of those of the West, who, as they must one day separate from the Atlantic States, would find themselves without any communication from Lower Louisiana, from whence they ought to expect to receive powerful succors in artillery, arms, ammunition, and money, either publicly or secretly, as soon as ever the Western States shall determine on a separation, which must insure their prosperity and their independence; that for this same reason Congress is resolved on risking everything to take these posts from Spain; that it would be forging fetters for themselves to furnish it with militia and means which it can only find in the Western States. The same reasons, diffused abroad by means of the public papers, might make the strongest impression on the people, and induce them to throw off the yoke of the Atlantic States; but at the very least, if we are able to dissuade them from taking part in this expedition, I doubt whether the States could give law to us with such troops alone as they have now on foot.

If a hundred thousand dollars distributed in Kentucky could cause it to rise in insurrection, I am very certain that the Minister, in the present circumstances, would sacrifice them with pleasure; and you may, without exposing yourself too much, promise them to those who enjoy the confidence of the people, with another equal sum to arm them, in case of necessity, and twenty pieces of field artillery.

You will arrive without danger, as bearer of a despatch for the General, where the army may be, whose force, discipline, and dispositions, you will examine with care; and you will endeavor to discover, with your natural penetration, the General's dispositions. I doubt that a person of his character would prefer, through vanity, the advantage of commanding the army of the Atlantic States, to that of being the founder, the liberator—in fine, the Washington of the Western States. His part is as brilliant as it is easy; all eyes are drawn towards him; he possesses the confidence of his fellow-citizens, and of the Kentucky volunteers; at the slightest movement the people will name him the General of the New Republic; his reputation will raise an army for him, and Spain, as well as France, will furnish him the means of paying it. On taking Fort Massac, we will send him instantly arms and artillery; and Spain, limiting herself to the possession of the forts of Natchez and Walnut Hills, as far as Fort Confederation, will cede to the Western States all the eastern bank to the Ohio, which will form a very extensive and powerful Republic, connected by its situation, and by its interest with Spain, which, in concert with it, will force the savages to become a party to it, and to confound themselves in time with its citizens. The public is discontented with the new taxes; Spain and France are enraged at the connexions of the United States with England: the army is weak, and devoted to Wilkinson; the threats of Congress

authorize me to succor on the spot, and openly, the Western States; money will not then be wanting to me, for I shall send without delay a ship to Vera Cruz in search of it, as well as of ammunition; nothing more will consequently be required but an instant of firmness and resolution to make the people of the West perfectly happy. If they suffer this instant to escape them, and that we should be forced to deliver up the posts, Kentucky and Tennessee, surrounded by the said posts, and without communication with Lower Louisiana, will ever remain under the oppression of the Atlantic States.

If you represent forcibly these reasons to Wilkinson, Sebastian, La Cassagne, &c., and if you diffuse these notions among the people, gaining by promises which shall be faithfully realized the best writers, as Breckenridge and others, you will be able to effect the most fortunate and the most glorious commotion; you will cover yourself with glory, and you may expect the most brilliant fortune. If, on the contrary, you should fail in this commission, it will not deprive me of the opportunity of obtaining for you, from the Minister, an appointment, which will render you independent of hatred and jealousy.

You must set off without delay, and by land, going straight to Cumberland, as well to avoid Fort Massac as to endeavor to fall in with the American detachment, and persuade it to wait the answer or new orders from General Wilkinson; for, if it arrives at Natchez, there is every reason to believe that we may come to blows, not being of a humor to put up with insults. The Intendant sends an order to pay you \$1,000.

If you could persuade the Commissioner (Mr. Andrew Ellicott) to descend to the capital, I should with the greatest pleasure form an acquaintance with him; and by showing him, without disguise, the copy of the orders which I have sent to Mr. Gayoso, since his arrival at Natchez, he will perceive that my conduct towards the United States is frank, founded on prudence and good faith, and void of the idea of breaking or failing in the articles of the treaty; that, in fine, the unaccountable part of the conduct of the Governor of Natchez only proceeds from the alterations which he has made, of his own accord, in my arrangements. Lastly, you may assure Mr. Andrew Ellicott that I am persuaded, that in a month or two, all the difficulties will be settled by Congress, and by the Minister Plenipotentiary of His Majesty, (Don Carlos Martinez de Yrujo,) and that consequently he would do very ill to withdraw. On the contrary, he may come down conveniently in my barge with Mr. Guillemard, who is desirous of spending a month or two here, while we are waiting the answer of Congress. Mr. Ferrezola has also orders to come to town.

I informed Mr. Gayoso that you are the bearer of the answer to the letter which General Wilkinson has written to the commandant of New Madrid, and that I have given directions to pay you a thousand dollars on account of your last journey, and that you are about to undertake. This suffices. The field which is opened is bril-

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liant enough, but as much prudence as capacity is required, in order to succeed.

I have the honor to be, with the greatest consideration, sir, your very humble and obedient servant,
DE CARONDELET.

Mr. THOMAS POWER.

No. 40.

NATCHEZ, June 4, 1797.

I received yesterday the letter of the 26th May, which you have done me the honor to write me, and which the preparations for my journey do not permit me to answer but very briefly. I have received of Mr. Gayoso the despatch of General Wilkinson, together with the copy, in order to make use of it as circumstances may require. With respect to the second object of my expedition, (which is the most interesting, as nothing can coincide better with my inclination,) you may depend that I will acquit myself of it with all the fidelity and zeal which you know me to possess, and with that good understanding, resulting from a perfect knowledge of the place and persons with which we are concerned. To avoid the possibility of a mistake in the communication which I shall have to make to the commander of New Madrid, I will explain what I mean to give you to understand by my signature. This bar, with the dots before the signature, signifies 4,600 men. In the flourish, the dots to the left of the small stroke are tens, and of the right are units; so that they mean thirty-five pieces of artillery. The date at the bottom of my letter will simply signify that the militia are on foot, and ready to march. The remarks which your letter contains, are well adapted to cause the strongest sensations in Kentucky—as much on the people as on General Wilkinson, and other distinguished characters; and I will not fail to represent them in that point of view which is the most striking, and I will strengthen them with those which the study I have made of their interests and the ardor with which I desire to see their decision may suggest. However, I will use wisdom and prudence in my measures, not to compromise myself; and all imaginable precautions will be necessary, on my part, in order not to let slip anything which may give light to my design; for, whenever they see me enter their territory, their mistrust and their jealousy causes them to suspect that I have secret objects in view. I will tell Wilkinson that the difficulty and the danger of carrying money by land have prevented you from sending the 640 piastres. The ambition and politics of this General are a certain warrant to me that he will support our plans (which have always been his) with all his influence. And we may rely upon Nicholas, Sebastian, Innes, Murray, and Clarke, in a word, on all those who are attached to Wilkinson, and also those who were to compose the army of Clarke. The principal characters of the place are united to us by ambition and interest; and an excessive Gallicism and a love of change answer for the support

of the people, who will willingly submit to your project. If I give credit to my presentiment, our success is infallible. There are so many powerful motives which should lead the Western States to take this step, that we should be permitted to believe that they had lost their senses if they flinch. As to myself, I will spare neither pains nor labor for the success of this important revolution. And I have to request of you, that you will deign to accept of my most sincere acknowledgment, as well for having launched me out in a career so glorious and so brilliant, as for protecting me from jealousy and hatred. I have seen Ellicott: I told him what you communicated to me about him, and he was very well satisfied with it. He spoke of you in the most flattering terms, and requested me to present you his best respects, and to assure you, that, however affairs may turn out, he will not leave the province without seeing you. The 1,000 piastres have been delivered to me, and I only wait a horse to set off. Do not cease to trust in my zeal, vigilance, and courage.

I have the honor to be, with most profound respect, and most sincere acknowledgment, sir, &c.

THOS. POWER.

Mons. DE CARONDELET.

No. 42.

General Wilkinson to Mr. Power.

HEADQUARTERS, DETROIT, Sept. 5, 1797.

SIR: I have the last moment received your letter of the day, which occasions me much surprise.

At our first interview, the night before last, I expressed to you the necessity of your speedy return, by the shortest route, to the Baron de Carondelet, with the answer to the letter which you bore me from him. You offered no objection to this proposition, except the incapacity of your horses for the journey, which I immediately agreed to remove by furnishing others.

You at the same time complained to me of violence and outrage which you had experienced on your journey to this place—being at one time stopped, and at another time pursued, seized, and examined in every particular of person, baggage, and papers. It seems a little singular that you should incline to retrace a route in which you had suffered such abuse, when a secure and convenient one is proposed to you.

As no man can more highly appreciate the rights of treaties and of individuals than myself, and as I am well apprized of the obligations subsisting between the United States and His Catholic Majesty, I am among the last men on earth who would wantonly or capriciously question the compacted rights of the two sovereignties, their citizens or subjects.

But, as you have approached me in a public character, and on national business, which requires my speedy answer to the letter of the Governor of Louisiana, whose messenger you are, I cannot consider you so far a free agent as to elect the time or route for your return; but that you stand bound by motives of political import, as well to

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Spain as to the United States, to consummate the objects of your mission with all possible promptitude; and, of consequence, that all objects of a private or personal nature must yield to the obligations of public duty.

I therefore, sir, cannot recede from my purpose, and will hope you may be prepared to take your departure early to-morrow morning, in the company of Captain Shaumburg, who will be instructed to attend you to New Madrid, and who will receive and forward any letter you may wish to send to the falls of Ohio, from the most convenient point of your route.

With due consideration, I am, sir, your most obedient servant. JAS. WILKINSON.

Mr. THOMAS POWER.

No. 43.

On the 3d of June last, I received the Baron de Carondelet's letter, dated 28th of the preceding month, accompanied by the instructions there announced, of which I enclose copies Nos. 1 and 2. In consequence of the orders and intention which his Excellency has deemed proper to advise me of in them, I took the necessary steps for the journey, and set out on the 8th of the same month. Having lost my horses the day I set out from bayou Pierre, and by other unforeseen and unavoidable accidents, my arrival at Nashville (capital of Cumberland) was retarded until the 5th of July, where I was compelled to remain some days, as well to execute with exactness my private instructions, carefully to examine the dispositions of its inhabitants, with respect to the difference then existing between the United States and us, and to ascertain, definitively, the part which they intend to take in the present crisis, as also to lessen the difficulties which were rising, to provide against doubts, and avoid the dangers which would not fail to result from the rumors spread among the public as to the true object of my journey. The magistrate, Mr. J. Gordon, detained me some days.

Having done away and overcome these difficulties, I pursued my journey to Louisville, where I had an interview with Mr. Benjamin Sebastian, to whom, as the above letter mentions, I communicated the apparent motive, and likewise the true cause of my mission. Besides, the propositions expressed in my instructions, not to lose the fruit of my journey, I found myself compelled to add the following, since, without the first, I perceived that neither he nor the other persons interested in this important undertaking would have taken the necessary measures for the happy issue of it. In the first place, I have agreed, that whenever one of those who favored the fomentation of the projects of the Baron should, by this means, lose his office, he shall receive from the King an indemnification, with the emoluments which he enjoyed.

2d. That the boundary line on the north, between the territory of His Majesty and that of the new States of the east, must begin at the mouth of the river Yazoo, and extend in that

direction as far as the Tombigbee; that the last strong post or Spanish settlement on said river be six miles within His Majesty's territories.

3d. That the place called St. Fernando de las Barrancas, with all the land granted to Spain by the Chicacha nation, in the treaty made with her by Mr. M. G. de Lemos, must remain in His Majesty's possession.

4th. That the King is not to interfere, neither directly or indirectly, in the formation of the government or laws which they may think proper to establish.

Consequent to these objects, we resolved that he should make them known to Messrs. Nicholas, Innes, Todd, and other persons in whom he confided, who were zealous for the improvement, prosperity, and independence of Kentucky, &c., absolutely refusing to speak to Murray or Breckinridge on the subject, as he mistrusted both. The first is given to drink, infidelity, and perfidy; the other is notorious to hold conferences with them, directed towards verifying the desires of the Baron, and concert measures to that effect. In the mean time, I should continue my journey to Detroit, where General Wilkinson was, as well to deliver him the Baron's letter, as to conceal the object of my mission, and avoid what was plotting against me at Louisville, whose inhabitants were very mutinous at my arrival in the country, and were openly threatening me. We agreed, also, that on my return I should pass through Greenville, Cincinnati, Newport, Georgetown, Lexington, Frankfort, &c., to see the gentlemen above-mentioned, and inform myself thoroughly of the result of their conferences; and that he, (Sebastian,) with another appointed person, should accompany me as far as New Orleans. Notwithstanding, Don B. Sebastian is persuaded that, for the present, all the means and endeavors used to stimulate the inhabitants in the Eastern States to separate themselves from the Confederation will be useless, still he will not fail to exert his utmost to obtain what we so anxiously desire.

To return to my journey. I sat out from Louisville the — of July, to arrive at Detroit as soon as possible, and the following day I met with the accident manifested in the documents No. —. Note, that on the 16th of July, I wrote to Captain Isaac Guyon, forwarding him the copy of the Baron de Carondelet's letter to General James Wilkinson; I enclosed a copy of mine to said Captain Guyon, No. —. Nothing new presented itself in the course of my journey, and I arrived in the neighborhood of Detroit on the 16th of August. I was informed that General Wilkinson had set out for Michilimackinac; in consequence of which I did not enter the post until the 24th, which was the day they expected him, but he did not return before the 3d or 4th of September. Before he arrived, as soon as he knew that I was there, he ordered me to remain arrested in the quarters of the officers. On the 6th he delivered me his answer to the Governor's letter, obliging me (*contra jus gentium*) to return to New Madrid, by Wabash, under a guard, com-

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manded by Captain Bartholomew Shaumburg, as is proved, not only by my correspondence with him on the subject, which is copied in No. —, No. —, and No. —, but also by the annexed declaration of Shaumburg, No. —. On my arrival at Post Vincennes, I dispatched an express to Louisville, with a letter for Benjamin Sebastian, a copy of which goes enclosed, No. — advising him of what had occurred, and informing him minutely of the motives which prevented me from complying with my promise given him. On the 10th of October we arrived at New Madrid, without any particular occurrence. I remained in that place fifteen days, waiting for Mr. Sebastian. Finally, seeing that he did not come, and not hearing from him, I departed on the 24th of October, but by low tides, bad weather, and winds from the southward, I did not arrive at this capital before the 30th of last month. Captain Shaumburg, by order of General Wilkinson, and on account of the United States, defrayed all the expenses of our voyage from Detroit to New Madrid. But let us return to the object of my mission.

General Wilkinson received me very coolly. During the first conference I had with him, he told me very bitterly, "we are both lost, without being able to derive any advantage from your journey," and asked me afterwards if I had brought him the \$640; he added, that the Executive had given orders to the Governor of the Northwest Territory to take and send me to Philadelphia; that there was no other resource for me to escape, but by permitting myself to be conducted immediately under a guard to Fort Massac, and from there to New Madrid. Having informed him of the proposals of the Baron, he proceeded to tell me that it was a chimerical project, which it was impossible to execute; that the inhabitants of the Western States, having obtained by treaty all they desired, would not wish to form any other political or commercial alliances, and that they had no motive for separating themselves from the interests of the other States of the Union, even if France and Spain should make them the most advantageous offers; that the fermentation which existed four years back is now appeased; that the depredations and vexations which American commerce suffered from the French privateers had inspired them with an implacable hatred for their nation; that some of the Kentuckians had proposed to him to raise three thousand men to invade Louisiana, in case war should be declared between the United States and Spain; that the latter had no other course to pursue, under the present circumstances, but to comply fully with the treaty, which had overturned all his plans, &c., and rendered useless the labors of more than ten years; that as to him, he said he had destroyed his ciphers, and torn all his correspondence with our Government, and that his duty and his honor did not permit him to continue it; that, withall, the Governor ought not to be apprehensive of his abusing the confidence which he had placed in him; finally, that Spain, by delivering up to the United States the

Territory of Natchez, &c., might perhaps name him Governor of it, and that then he would not want opportunities to take more effectual measures to comply with his political projects. He complains very much that the secret of his connexion with our Government had been divulged, for want of prudence on our part; that he knew in September, of the last year, by means of one of his officers, that Spain had no intention to give up the posts, since the above-mentioned officer saw a letter at Post Vincennes, written by a Spanish officer, of the Illinois, and directed to an inhabitant of that place, in which he tells him that Mr. Audrain has a correspondence with Z. Trudeau, (or makes it to be believed,) and that he communicates to him private affairs of the Government, so that Audrain is accustomed to spread news that, at all events, may cause a rupture in the frontiers; that Mr. Trudeau has conducted himself with a great deal of imprudence, having sent emissaries among the Indians, in the territory of the United States, inviting them to come and establish themselves in that of Spain; telling them that his father, the Spaniard, was at war with the English, and that he would soon make it with the Americans, &c.

With respect to the dispositions of the people of Kentucky, the opinion of Mr. Sebastian differs very much from that of General Wilkinson. He says, that even if war is declared between Spain and the United States, we will have nothing to fear from the Kentuckians; and he has not omitted to insinuate that it would be the most efficacious mode to spur them on to take a violent part against the Eastern States. Without considering the many representations which, verbally and in writing, I have made to your Excellency, and to the Baron de Carondelet, on this subject, I will recapitulate, in a few words, the result of my many observations, made with the most scrupulous attention.

A great portion of the principal characters in Kentucky, Cumberland, and the Northwest Territory, have been instigators of the expedition of Genet and Clarke against this province, consequently they are enemies of those who are of the French; more than one-half of the rest are those who take the greatest interest in a more intimate union of the Western States with us; and many of those who remain, as they are not very desirous of gaining conquests over Spain, but only to preserve the limits and privileges marked in the treaty, will do what they can, in order to avoid hostilities. The people permit themselves to be implicitly governed by one of the parties mentioned; so that, considering these circumstances, we may labor under no apprehensions on this account. But other more weighty reasons oppose to their declaring themselves independent of the Eastern States. I will content myself with relating the principal one: Whilst they will be making a treaty with the Government of Louisiana, what certainty will they have that the Cabinet of New Madrid is not making a treaty, at the same time, very different from what they may have agreed to here? Experience has

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taught them, to their misfortune, that this is not a mere conjecture. Three motives alone would be able to impel them to break the confederation with the other States, viz:

1st. War with the Republic of France.

2d. A prohibition to navigate the Mississippi, and to establish themselves in the dominions of the King.

3d. Their incapacity to pay in cash their share of the common duties, (\$28,000,) or to see the Government intent on recovering it by force.

These are the axes upon which their policy turns. It now remains for me to say something of the military forces of the United States. Their Army amounts to near three thousand men; they consist of four regiments of infantry, one double regiment of artillery, and two companies of cavalry. In each regiment there are eight companies; each company is composed of sixty-five men, including a captain, a lieutenant, and an ensign; but there is not one complete. It must be observed, that the two companies of cavalry amount to one hundred and eighty men; but there are only sixty mounted. Each regiment has a colonel and two sergeant majors. The first regiment, commanded by Colonel Hamtramck, is at Fort Wayne, and the other forts towards Fort Washington; the second, commanded by Colonel Strong, is encamped at Detroit, Michilimackinac, Niagara, Presqu'Isle, Oswego, &c.; the third, commanded by Colonel Gaiher, fortifies the forts of Massac, Barrancas, &c., one or two companies remaining in Georgia; the fourth, commanded by Colonel Butler, is in Tennessee; the artillery men are divided among the forts, although the greatest part does not go from Stony Point, in the Eastern States; the cavalry is divided between Tennessee, Detroit, and Fort Washington. With regard to their forts, as it is a subject of little importance to us, I do not wish to trouble your Excellency with a tedious description of them. There is a strict discipline observed in the Army; the soldiers are almost all youths, from sixteen to twenty-six years of age; they go through some military evolutions with sufficient precision. With respect to the officers, from the lowest to the highest, (excepting very few,) they are deficient of those qualities which adorn a good soldier, except fierceness, and are overwhelmed in ignorance, and in the most base vices.

The influence of General Wilkinson in Kentucky has become very limited; and in the Army, by wishing to establish some innovations, lessens it from day to day. I hope, from what is said on the subject of my mission, that you will be convinced that, if it has not had a more happy issue, it ought not to be attributed in any manner to indiscretion on my part, since it is evident that it sprung from a cause which no human penetration could foresee, and no prudence prevent; and if I have been deficient in the intelligence and capacity which the discharge of my commission required, it will not be boldness in me to say, that the promptitude and zeal, silence and fidelity, which, on more important occasions, I have man-

ifested in the service of His Majesty, have not been of any avail on the present. God preserve you many years.

DECEMBER 5. 1797.

P. S. I enclose you, with the other documents, the account of the expense of the journey, No. 11; that of the six hundred and forty dollars, which General Wilkinson so anxiously solicits, and which he has charged me to receive on his account, I remitted to the Baron de Carondelet in the month of May, of this year. No. 3, with the other documents, those which I received, as stated in his official letter of the 28th of the same month and year, of which I also enclose a copy, No. 12.

Mr. MANUEL GAYOSO DE LEMOS.

No. 70.

General Wilkinson to Thomas Power.

HEADQUARTERS, GREENVILLE,

May 25, 1796.

SIR: The day before yesterday I had the honor to receive a letter from you, under date of the 20th instant, in which you request leave to visit this place, and to proceed by St. Vincennes and the Illinois, to New Madrid. Permit me, sir, to observe, that this precaution was unnecessary, at a time when the United States of America are happily at peace with all the world. In this enviable situation, the officers of the American Army have no concealments to make, and therefore our camps and our forts are free to the ingress and egress of all persons who deport themselves with propriety. I beg you, sir, to believe that, upon an unpleasant occasion, to which you are pleased to refer, my conduct was directed more by the delicacy of my own situation than any sense of your demerit. Neither my sympathies nor my antipathies have ever gained such an ascendant over my reason, as to incline me to condemn upon hearsay, or to adopt the prejudices of any man. I thank you, sir, for the trouble you have given yourself, in bringing forward the segars committed to your charge by my very worthy friends, Governor Gayoso and Don Andres; and I have the honor to be, with due consideration, sir, your most obedient servant,

JAMES WILKINSON.

Mr. THOMAS POWER.

No. 44.

NEW ORLEANS, April 23, 1797.

SIR: I have received the letter you honored me with, which I have not been enabled to answer sooner on account of a multiplicity of occupations. In consequence of the news which I have received from our Envoy towards the United States, that the English are going to attack the Illinois, I am compelled to change anew the arrangements I had taken to begin the delineation of the limits; because, if the expedition is of sufficient consequence to take possession of St. Louis, which, as you know very well, has but a very bad fort, only calculated to silence the sav-

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ages, we have nothing remaining as far as Nogales that could stop the enemy, and protect Lower Louisiana; in consequence of which, I have ordered Mr. Gayoso to make known to Mr. Ellicott, and the commander of the American detachment, that I find myself compelled to put Nogales in a state of defence, and to forward there all the troops and artillery existing at Natchez, where I shall leave but fifty men, commanded by Don Manuel Lanzos, Mr. Gayoso being compelled to go with Messrs. Guillemond and Perchet to Nogales to hasten the preparations. Finally, I am going, moreover, to send up to Nogales a company of grenadiers. As it is requisite that at Natchez there should be an intelligent person who should watch, and be informed of, the steps taken by the Commissary and commanding officer, I have ordained that you should serve Mr. Lanzos as secretary and interpreter, who is not deficient in finesse; and that Vidal shall accompany Mr. Gayoso to Nogales, or to the Illinois, with money and despatches which I send there. You must send me an exact information of all that passes worthy mentioning, and endeavor to insinuate yourself into the confidence of the American commander, whom you must endeavor to make opposed to Ellicott; even if it should cost you some hundred dollars in presents to the King, let that be no obstacle, and I assure you that they will be satisfied; by these means we will reduce Ellicott to be unable to act by himself, and we would be safe on that quarter.

The Envoy of His Majesty has intimated to the Minister of Foreign Affairs that the English expedition could not arrive at St. Louis de Illinois without violating the American territory, and that he expected that the United States would be opposed to their passage, and observe exactly the last treaty concluded with Spain. If the contrary happens, I doubt not but it will be annulled. At the Havana are expected twelve thousand Spanish troops. The reception you met with from Mr. Gayoso does not astonish me; but I am exactly of your opinion relative to the consequences which will follow. It is impossible that the wise inhabitants of Natchez can agree to a step which, by insulting a Power jealous of its power, would expose them to certain ruin, and to be disavowed by the United States, who, assuredly, will not undertake a war against Spain and France to maintain a step taken against the law of equity, and of the rights of nations. I believe it so very improbable, that I cause to retire, as I told you, the troops, and I only leave a detachment to maintain good order, and to repel the insults of the savages. As to Mr. Ellicott, whose conduct towards me has been very unbecoming, can be very easily recalled, or at least restricted to the only commission of the limits, because I have strongly written to the Envoy of His Majesty and to the Prince of Peace.

It appears that the beginning of this misunderstanding between Mr. Gayoso and Mr. Ellicott, as Mr. Nolan told me, proceeds from the following cause: that some Choctaw savage having drank to excess, got in dispute with some of the

servants of the latter gentleman, who thought that the Governor had made them inebriated to cause them to put him and his people to the sword; so much so that Nolan has been compelled to remain two nights in his camp to tranquillize him. What lowness in a man who boasts of the title of the representant of a nation! It was I who ordered that the American detachment might remain near Mr. Ellicott, and I disapproved, from the first moment, the opposition which was made. If Mr. Ellicott had officially informed me of his entering my province, as it is customary, and had addressed himself to me on account of motives of complaint which he thought just, I should have acted with frankness towards him, and nothing of that kind would have happened, except the suspension of the evacuation of those posts which depend on me, not thinking myself authorized to deliver them up with their fortifications and edifices, as General Wayne and Don Andres Ellicott exacted.

I have thought it very strange that the American flag should be permitted to be hoisted before the door of Ellicott. I could not help observing it, although I do not wish to sour them by commanding it to be taken away.

I have just written to W. and sent my letter to Mr. Nolan, a fine young man, and of whom I think highly. He told me he had a secure conveyance to forward it to him. It had been a long time since I wrote him, not having an opportunity, and fearing to compromise.

Farewell; let me hear from you, and command him who has the honor to be, with the greatest consideration, sir, your very humble and obedient servant,

DE CARONDELET.

P. S. The Envoy of His Majesty towards the United States has sent to the Illinois the French engineer, Mr. Finiels, to fortify it if there is time; but he will have found there Vandenbenden occupied at the same thing. Do you know the former?

No. 45.—Deposition of Daniel Clarke.

WASHINGTON CITY, Jan. 11, 1808.

In obedience to the direction of the House of Representatives, expressed in the resolution of Friday last, I submit the following statement:

I arrived from Europe at New Orleans in December, 1786, having been invited to the country by an uncle of considerable wealth and influence, who had been long resident in that city. Shortly after my arrival I was employed in the office of the Secretary of the Government. This office was the depository of all State papers. In 1787 General Wilkinson made his first visit to New Orleans, and was introduced by my uncle to the Governor, and other officers of the Spanish Government.

In the succeeding year, 1788, much sensation was excited by the report of his having entered into some arrangements with the Government of Louisiana to separate the Western country from the United States; and this report acquired great

Brigadier General James Wilkinson.

credit upon his second visit to New Orleans in 1789. About this time I saw a letter from the General to a person in New Orleans, giving an account of Colonel Connelly's mission to him from the British Government in Canada, and of proposals made to him, on the part of that Government, and mentioning his determination of adhering to his connexion with the Spaniards.

My intimacy with the officers of the Spanish Government, and my access to official information, disclosed to me shortly afterwards some of the plans the General had proposed to the Government for effecting the contemplated separation. The general project was, the severance of the Western country from the United States, and the establishment of a separate Government, in the alliance and under the protection of Spain. In effecting this, Spain was to furnish money and arms; and the minds of the Western people were to be seduced and brought over to the project, by liberal advantages resulting from it, to be held out by Spain. The trade of the Mississippi was to be rendered free, the port of New Orleans to be opened to them, and a free commerce allowed in the productions of the new Government with Spain, and her West India islands.

I remember about the same time to have seen a list of names of citizens of the Western country, which was in the handwriting of the General, who were recommended for pensions, and the sums were stated proper to be paid to each, and I then distinctly understood that he and others were actually pensioners of the Spanish Government.

I had no personal knowledge of money being paid to General Wilkinson, or to any agent for him on account of his pension, previously to the year 1793 or 1794. In one of these years, and in which I cannot be certain until I can consult my books, a Mr. La Cassagne, who I understood was postmaster at the falls of Ohio, came to New Orleans, and, as one of the association with General Wilkinson in the project of dismemberment, received a sum of money, four thousand dollars of which, or thereabout, were embarked by a special permission, free of duty, on board a vessel which had been consigned to me, and which sailed for Philadelphia; in which vessel a Mr. La Cassagne went passenger. At and prior to this period I had various opportunities of seeing the projects submitted to the Spanish Government, and of learning many of the details from the agents employed to carry them into execution.

In 1794, two gentlemen, of the names of Owens and Collins, friends and agents of General Wilkinson, came to New Orleans. To the first was entrusted, as I was particularly informed by the officers of the Spanish Government, the sum of six thousand dollars, to be delivered to General Wilkinson on account of his own pension, and that of others. On his way, in returning to Kentucky, Owens was murdered by his boat's crew, and the money, it was understood, was made away with by them. This occurrence occasioned a considerable noise in Kentucky, and contributed with Mr. Power's visits at a subsequent period,

to awaken the suspicion of General Wayne, who took measures to intercept the correspondence of General Wilkinson with the Spanish Government, which were not attended with success.

Collins, the co-agent with Owens, first attempted to fit out a small vessel in the port of New Orleans, in order to proceed to some port in the Atlantic States; but she was destroyed by the hurricane of the month of August, 1794. He then fitted out a small vessel in the bayou St. John, and shipped in her at least eleven thousand dollars, which he took round to Charleston.

This shipment was made under such peculiar circumstances that it became known to many, and the destination of it was afterwards fully disclosed to me by the officers of the Spanish Government, by Collins, and by General Wilkinson himself, who complained that Collins, instead of sending him the money on his arrival, had employed it in some wild speculations to the West Indies, by which he had lost a considerable sum, and that, in consequence of the mismanagement of his agents, he had derived but little advantage from the money paid on his account by the Spanish Government.

Mr. Power was a Spanish subject, resident in Louisiana, and the object of his visits to the Western country became known to me in 1796, when he embarked on board the brig Gayoso, at New Orleans, for Philadelphia, in company with Judge Sebastian, in which vessel, as she had been consigned to myself, I saw embarked, under a special permission, four thousand dollars or thereabout, which I was informed were for Sebastian's own account, as one of those concerned in the scheme of dismemberment of the Western country.

Mr. Power, as he afterwards informed me, on his tour through the Western country, saw General Wilkinson at Greenville, and was the bearer of a letter to him from the Secretary of the Government of Louisiana, dated 7th or 8th of March, 1796, advising that a sum of money had been sent to Don Thomas Portell, commandant of New Madrid, to be delivered to his order. This money Mr. Power delivered to Mr. Nolan by Wilkinson's directions. What concerned Mr. Nolan's agency in this business I learned from himself, when he afterwards visited New Orleans.

In 1797, Power was entrusted with another mission to Kentucky, and had directions to propose certain plans to effect the separation of the Western country from the United States. These plans were proposed and rejected, as he often solemnly assured me, through the means of a Mr. George Nicholas, to whom, among others, they were communicated, who spurned the idea of receiving foreign money. Power then proceeded to Detroit to see General Wilkinson, and was sent back by him under guard to New Madrid, from whence he returned to New Orleans. Power's secret instructions were known to me afterwards, and I am enabled to state that the plan then contemplated entirely failed.

At the periods spoken of, and for some time afterwards, I was resident in the Spanish territory,

Brigadier General James Wilkinson.

subject to the Spanish laws, and without any expectation of becoming a citizen of the United States. My obligations were then to conceal, and not to communicate to the Government of the United States the projects and enterprises which I have mentioned of General Wilkinson and the Spanish Government.

In the month of October of 1798, I visited General Wilkinson, by his particular request, at his camp at Loftus Heights, where he had shortly before arrived. The General had heard of remarks made by me, on the subject of his pension, which had rendered him uneasy, and he was desirous of making some arrangements with me on the subject. I passed three days and nights in the General's tent. The chief subjects of our conversation were the views and enterprises of the Spanish Government in relation to the United States, and speculations as to the result of political affairs.

In the course of our conversation, he stated that there was still a balance of ten thousand dollars due him by the Spanish Government, for which he would gladly take in exchange Governor Gayoso's plantation near Natchez, who might reimburse himself from the treasury at New Orleans. I asked the General whether this sum was due on the old business of the pension; he replied that it was, and intimated a wish that I should propose to Governor Gayoso a transfer of his plantation for the sum of money due him from the Spanish treasury. The whole affair had always been odious to me, and I declined any agency in it. I acknowledged to him that I had often spoken freely and publicly of his Spanish pension, but told him I had communicated nothing to his Government on the subject. I advised him to drop his Spanish connexion. He justified it heretofore from the peculiar situation of Kentucky; the disadvantages that country labored under at the period when he formed his connexion with the Spaniards; the doubtful and distracted state of the Union at that time, which he represented as bound together by nothing better than a rope of sand; and he assured me solemnly that he had terminated his connexions with the Spanish Government, and that they never should be renewed. I gave the General to understand that, as the affair stood, I should not in future say anything about it. From that period until the present, I have heard one report only of the former connexion being renewed, and that was in 1804, shortly after the General's departure from New Orleans. I had been absent for two or three months, and returned to the city not long after General Wilkinson sailed from it. I was informed by the late Mayor, that reports had reached the ears of the Governor, of a sum of ten thousand dollars having been received by the General, of the Spanish Government, while he was one of the commissioners for taking possession of Louisiana. He wished me to inquire into the truth of them, which I agreed to do, on condition that I might be permitted to communicate the suspicion to the General, if the fact alleged against him could not be verified. This was assented to. I made the

inquiry, and satisfied myself, by an inspection of the treasury book for 1804, that the ten thousand dollars had not been paid. I then communicated the circumstance to a friend of the General, Mr. Evan Jones, with a request that he would inform him of it. The report was revived at the last session of Congress, by a letter from Colonel Ferdinand Claiborne, of Natchez, to the delegate of the Mississippi Territory. A member of the House informed me that the money in question was acknowledged by General Smith to have been received at the time mentioned, but that it was in payment for tobacco. I knew that no tobacco had been delivered, and waited on General Smith for information as to the receipt of the money, who disavowed all knowledge of it, and I took the opportunity of assuring him, and as many others as mentioned the subject, that I believed it to be false, and gave them my reasons for the opinion.

This summary necessarily omits many details tending to corroborate and illustrate the facts and opinions I have stated. No allusion has been had to the public explanations of the transactions referred to, made by General Wilkinson and his friends. So far as they are resolved into commercial enterprises and speculations, I had the best opportunity of being acquainted with them, as I was, during the time referred to, the agent of the house who were consignees of the General at New Orleans, and who had an interest in his shipments, and whose books are in my possession.

DANIEL CLARKE.

DISTRICT OF COLUMBIA, to wit:

JANUARY 11, 1808.

Personally appeared before me, William Cranch, chief judge of the circuit court of the District of Columbia, Daniel Clarke, Esquire, who, being solemnly sworn on the Holy Evangelists of Almighty God, doth depose and say that the foregoing statements made by him, under the order of the House of Representatives, so far as regards matters of his own knowledge, is true; and so far as regards the matters whereof he was informed by others, he believes to be true.

Sworn to before me. W. CRANCH.

Papers relative to the third point of inquiry.

No. 45.—[The deposition of Daniel Clarke, before referred to, see above.]

No. 78.—General Wilkinson to General Adair.

RAPIDS OF OHIO, May 28, 1805,

Eleven o'clock A. M.

MY DEAR SIR: I did not answer your letter by Taylor, but I did better; I procured him a pension of twenty dollars per month. I was to have introduced my friend Burr, to you, but in this I failed by accident. He understands your merits, and reckons on you. Prepare to visit me, and I will tell you all. We must have a peep at the unknown world beyond me. I shall want a pair of strong carriage horses, at about one hundred

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and twenty dollars each, young and sound, substantial, but not flashy, I am in health, and, in spite of the neglect of friends, and the shameful omissions of attorneys, have this day given Sir — a damper. Perdition overtake the Jew scoundrel; he had nearly destroyed me by a decree of which I have had no intimation, although it is almost seven years old. Enough for the present. Thine ever.

JAMES WILKINSON.

General ADAIR.

P. S. I sail in an hour. Write me private.

[See evidence of General Wilkinson, as communicated to Congress, 23d November, 1807. See "Annals" 10th Congress, 1st session, page 387. President's Message.]

[See evidence of General Wilkinson, President's Message, ditto.]

X.—General Wilkinson's introduction of Colonel Burr to Daniel Clarke.

MASSAC, June 9, 1805.

MY DEAR SIR: This will be delivered to you by Colonel Burr, whose worth you know well how to estimate. If the persecutions of a great and honorable man can give title to generous attentions, he has claims to all your civilities, and all your services. You cannot oblige me more than by such conduct, and I pledge my life to you it will not be misapplied. To him I refer you for many things improper for a letter, and which he will not say to any other. I shall be at St. Louis in two weeks, and, if you were there, we could open a mine, a commercial one at least. Let me hear from you. Farewell. Do well, and believe me always your friend.

JAMES WILKINSON.

DANIEL CLARKE, Esq.

Papers relative to the fourth point of inquiry.

S.—Deposition of William Simmons, Esq.

DEPARTMENT OF WAR,

Accountant's Office, April 13, 1810.

GENTLEMEN: At the time I attended your honorable committee, in conformity to your summons of the 9th instant, when I was requested to detail any and every information that I possessed in relation to the conduct of Brigadier General James Wilkinson, in answer to the points expressed in the resolution from the House of Representatives, I will now proceed to give such testimony as has come to my own knowledge, and such corroborating information received from others, in my official capacity, on the investigation of the subject which, from the relative comparison, I have every reason to believe are also facts, viz:

In answer to the first part of the inquiry, relative to the Spanish agency, I know nothing about it. In relation to any concern that he might have had in the Burr business, the only information that has come to my knowledge, is in the disbursement of public moneys, drawn from the

public agents at New Orleans, in the year 1807, for the freight of vessels chartered by him to transport prisoners and witnesses from New Orleans to the seat of Government, and sundry advances to witnesses, fees to lawyers, &c., said to be incurred by the conspiracy of Aaron Burr; which disbursements, as well as others to a considerable amount, paid by warrants immediately from this Department, drawn by the former Secretary of War, for sundry objects of the like nature, and for which there was no specific appropriation to which I could charge these expenditures; I was, therefore, unable to credit the agents, or enter the account to any head of expenditure, until the 29th of November, 1809, when the present Secretary of War, to enable me to enter the account, directed that, as the disbursements had been made by virtue of orders from the Department of War, in the years 1806 and 1807, that they were chargeable to the contingent fund of the War Department, there being no other head of expenditure to which they could be properly charged; I have accordingly entered the account, and can give no other information on this subject.

In answer to your inquiry to "state the amount of money received by General Wilkinson in the year 1804, from Josiah Taylor, assistant military agent at New Orleans for public service," I reply that the only money he appears to have received from Taylor, at any time, on public account, is a sum of three thousand dollars, received on the 24th April, 1804.

In answer to your inquiry relative to extra rations claimed by General Wilkinson, and how allowed, I reply that, in January, 1809, an account was presented to me, admitted by Henry Dearborn, Secretary of War, for extra rations claimed by General Wilkinson, as commanding officer at Natchitoches and New Orleans, from the 13th of September, 1806 to the 24th of May, 1807, at thirty-six rations per day, including a charge for quarters, stabling, &c., amounting to \$2,033 16; which claim I rejected and refused to allow; first, because I considered that any allowance to General Wilkinson, other than what was fixed by the act of the 16th of March, 1802, was inadmissible, and that Colonel Cushing and Colonel Freeman, as commanding officers, having drawn extra rations at the same posts for the same time, and that no two officers could be entitled to extra rations at the same time for the same post. General Wilkinson, however, appealed from my decision to the accounting officers of the Treasury, to whom I stated my objections fully in a letter to the Comptroller, under date of the 10th of January, 1809, who on the 11th of January, 1809, returned me the account, and the opinion of the Attorney General, with directions to pass the amount to the credit of General Wilkinson on the books of my office; which I have accordingly done. On the 8th of June, 1809, General Wilkinson presented another account to Lieutenant S. Knight, district paymaster at New Orleans, and obtained payment from him for thirty-six rations per day, from 13th

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of March to the 30th of September, 1809, amounting to \$1,454 40. This payment was made by Lieutenant Knight, on the authority of a letter from Henry Dearborn, Secretary of War, under date of the 4th of January, 1809, and exhibited to me for a credit to the paymaster, and a charge against the United States, which I have refused to admit, being paid contrary to law; and that General Wilkinson's account already stands charged with considerable sums of public money unaccounted for. This account I have reported to the Treasury, with my objections, in a letter to the Comptroller, under date of the 16th of March, 1810, requiring a final decision at the Treasury, which has not yet been done. After the allowance had been made to General Wilkinson for extra rations for the period, and at the time for which they had been received by Colonel Cushing and Colonel Freeman, I called upon these gentlemen to refund for the period allowed to the General. They have both refused, contending that they were the only persons entitled to extra rations as commanding officers at these posts. I have, however, directed the paymaster to put them under stoppages, till the amount is refunded. Colonel Cushing, in his letter to me, under date of the 19th of June, 1809, after stating that he was the commanding officer entitled to the extra rations, a circumstance, he says, well known to the General, and every officer and soldier at the post, he then observes: "But I am assured by the General, that the subsistence allowed to him by the President was intended as a partial reimbursement for some 6 or \$7,000 which he had expended in the affair of Burr; and if this assurance be correct, it is impossible that my right to double rations at Natchitoches, and to triple rations at New Orleans, can, in any shape whatever, be affected by his allowance."

In answer to your inquiry relative to the charge against him for the freight of flour and apples from Baltimore to Charleston, thence by a public vessel to the Havana, &c., I observe that, on the examination of the accounts exhibited to the United States, by the assistant military agent at Charleston, it appears that, in February, 1809, a payment was made upon the order of General James Wilkinson for the freight and charges of the schooner Wolf, from Baltimore to Charleston, amounting to \$1,099, in full for the passages of General Wilkinson, Major Saunders, Major Robinson, Captain Williams, and Consul Anderson, and twenty-five non-commissioned officers, musicians, and privates, and waiters with their baggage, including fifty barrels of flour, and twelve barrels of apples for General Wilkinson, from Baltimore to Charleston, where, I have been informed, they embarked on board the brig Hornet for the Havana, on their way to New Orleans; and conceiving that the payment for the passage of General Wilkinson and Consul Anderson, and the freight for the flour and apples was an improper charge against the United States, I did accordingly charge the amount of these objects, being \$425, to the personal account of General Wilkinson.

In answer to your inquiry of the amount of moneys paid by Captain Moses Hooke, as military agent at Pittsburg, to General Wilkinson, or upon his order, and for what purpose. On reference to the accounts of Moses Hooke, as assistant military agent, he has paid to sundry persons for a boat, and fitting her up, to transport the General and family to New Orleans - - - - - \$199 65

Paid to the General on account, for which he gave his receipt on the 14th of May, 1805, to be accountable to the Accountant of the War Department, for - - - - - 700 00

Paid to John Dickey, Samuel Thompson, John Frush, John Philips, and James Cook, for wagoning from Washington City, Baltimore, and Philadelphia, to Pittsburg, on the order of General Wilkinson, under date of the 14th of May, 1805, amounting to - - - - - 262 96

The whole amounting to - \$1,162 61

All of which I have charged to the personal account of General Wilkinson, because the two first sums were for his own personal account, and Captain Peter was furnished with money to defray all proper transport of baggage to Pittsburg, in May, 1805.

It may here not be improper to observe, that Moses Hooke's account, as Quartermaster General to the expedition to the Sabine, appointed by General Wilkinson, stands charged, on the books of my office, to warrants on the Treasurer, with the sum of \$16,883 12, being the amount of sundry bills drawn by him on the Secretary of War, in October and November, 1806, and January, 1807. No such appointment as Quartermaster General is authorized by law, neither is there any particular appropriation, or head of expenditure to which such payments are chargeable. I have repeatedly called upon Captain Hooke to produce vouchers for the expenditure of the above sum, which he has never done. In a conversation with him, not long since, he observed, that a considerable sum of money had been drawn out of his hands, by General Wilkinson on account of services, and for which he only had the General's receipt. Captain Hooke is now out of service, and his account has been reported to the Treasury for a suit. It may also be proper to observe, that if General Wilkinson has received money from Mr. Hooke for secret services, that his account already stands charged on the books of my office, with a further sum of \$2,500, received on the 10th of January, 1807, from Abraham D. Abrahams, the military agent at New Orleans, for the like purpose; and that, on the 10th of January, 1809, he obtained a certificate from the President of the United States for a warrant upon the Treasury, and received payment for the sum of \$2,196; expressed as being for so much disbursed by him for objects in relation to the contingent expenses of intercourse

Brigadier General James Wilkinson.

between the United States and foreign nations. Why this amount was not directed to be passed to the credit of secret service money, charged to him on my books, I am at a loss to say.

In answer to your inquiry relative to the purchase of horses from Frederick Sandhagen, I observed, on the examination of the accounts of Abraham D. Abrahams, military agent at New Orleans, that in May, 1809, General Wilkinson directed to be purchased, and approved for payment to Frederick Sandhagen, the sum of \$800, for five horses purchased from him, one of which is stated to be for the light artillery. This created some surprise, that more horses should be purchased at New Orleans, in addition to the artillery horses that were sent down the river with the light artillery, when hay was at seventy dollars per ton, and oats at one dollar per bushel. The charge for the horses was, therefore, suspended till Captain Peter arrived, who was inquired of respecting the horses purchased. He then stated that the five horses purchased from Sandhagen were part of eleven horses purchased by Major Morrison, of Kentucky, for General Wilkinson; that the General had ordered him (Captain Peter) when he was about to descend the Ohio, to stop in the river to take on board his boats the horses purchased for the General by Major Morrison. He accordingly received eleven horses, and that, by so doing, he was detained several days with three or four hundred men, at a considerable expense to the United States; that, finally they were taken on board the public boats, and, until their arrival at New Orleans, were supported out of the public forage, of which there was a deal laid in for the use of the horses belonging to the light artillery; that, upon reaching New Orleans, the horses were delivered up as the private property of the General; that the five sold to the United States were charged at an extravagant high price; and that Frederick Sandhagen was formerly an old hack driver in this city, and was, at the time of selling the horses, a servant to General Wilkinson, and not likely to be owner of horses.

I also found that the eleven horses, before any part had been sold to the United States, had been kept and shod at the public expense. All of which I communicated to Mr. Eustis, the Secretary of War, who immediately wrote on to New Orleans, and ordered all the horses sold that could be done without. There was accordingly upwards of twenty sold, and only four retained for the use of the Army.

In answer to your inquiry relative to the manner of his drawing public moneys from the paymasters and agents, and if any was for objects unauthorized and improper, I observe, that he has generally drawn what he was legally entitled to by anticipation; and that he has been frequently in the habit, and does draw money from the paymasters and public agents, which are unauthorized by law. I have consequently been compelled to charge all such disbursements to his personal account; and thereby considerably increasing the balance standing to his debit on the

books of this office, which I have repeatedly urged him to account for, as may be seen by my letters of the 20th February, 23d March, and 16th November, 1808. copies of which have already been before the House of Representatives.

WM. SIMMONS.

WASHINGTON CITY, *District of Columbia, act:*

Personally appeared before me, the subscriber, an assistant judge of the circuit court for the district, William Simmons, who subscribed the above statement, and made oath on the Holy Evangelists of Almighty God, that what is contained therein, as far as is represented therein to be of his own knowledge, is true, and that which is stated to be from information of others and from documents, he believes to be true.

Given under my hand this 13th April, 1810.

B. THRUSTON.

P.—Captain Peter's deposition.

Captain George Peter, of Georgetown, appeared before the committee in the Capitol, on Thursday, the 12th of April, 1810, and made, on oath, the following statement:

Interrogatory 1st. What do you know relative to General Wilkinson's having directed and effected the payment of a sum of money, by Captain Moses Hooke, Military Agent for the United States, for the transportation of private property from Baltimore to Pittsburg, in the year 1805?

Answer. General Wilkinson, in April or May, 1805, directed me to pay to one or two wagoners, the transportation of property from Baltimore to Pittsburg. I informed the General that, as agent to the detachment, I had paid all the wagoners employed by me for the command. He then gave an order to Captain Moses Hooke, agent at Pittsburg, to pay the amount of the wagoners' claim, the General first paying the transportation of a few articles brought on in the same wagons for himself. I know that the goods thus transported and paid for by the said Captain Hooke, agreeable to the order of General Wilkinson, was private property, and no way appertaining to the public service. The amount may be ascertained by reference to the books of the accounting office. This payment was made to a man by the name of Frush. On our arrival at Massac, Captain McClelland was furnished with a tent, by the order of General Wilkinson, for storing the aforesaid merchandise. The said merchandise was also transported from Massac to St. Louis, in public boats, which occasioned the expense of an additional boat for the transportation of the public property.

Interrogatory 2d. What do you know relative to General Wilkinson's detaining the troops at Louisville, in the Winter of 1809, for the purpose of receiving a quantity of horses belonging to General Wilkinson?

Answer. A detachment consisting of six companies, embarked on board of about twenty Kentucky boats, arrived at Louisville in the morning of the 27th of February, and continued there till the evening of the 28th, waiting the arrival of

Brigadier General James Wilkinson.

Major Morrison with General Wilkinson's horses, about nine or ten in number. This delay was by the order of General Wilkinson. These horses were the private property of General Wilkinson, and were fed and taken care of at public expense till our arrival at New Orleans, which was the latter part of March; also, that a public boat was provided for the accommodation of said horses, at an expense of not less than one hundred dollars. On our arrival at New Orleans the said horses were delivered to the order of Colonel Parker. About the month of May, of the same year, four of the same horses were purchased by Abraham D. Abrahams, Military Agent at New Orleans, for the use of the United States; that three of them were very indifferent.

DISTRICT OF COLUMBIA, *Washington Co.*

GEORGETOWN, *April 28, 1810.*

Came Captain George Peter before me, a justice of the peace for the county aforesaid, and made oath on the Holy Evangelists of Almighty God to the truth of the foregoing statement.

Sworn to before

THOMAS CORCORAN.

W.—Deposition of Captain Williams.

I left the port of Baltimore on the 24th of January, 1809, on board the schooner *Wolf*, in company with General Wilkinson; fifty barrels of flour having been put on board belonging to the General. On our arrival at Charleston, flour was taken from the schooner, and put on board the United States' brig *Hornet*, in which vessel we sailed for the Havana. Of the flour taken to the Havana, a few barrels were presented to the General of Marine, an officer of the Spanish Government, by General Wilkinson.

Question. What do you believe was the quantity of flour put on board the brig *Hornet* at Charleston, and taken to the Havana?

Answer. I do not know that all the flour shipped at Baltimore was taken to the Havana, but believe that more than one-half did arrive there: a few barrels may have been got rid of at Charleston.

WM. E. WILLIAMS.

WASHINGTON COUNTY, ss:

On this 24th April, 1810, before the subscriber, a justice of the peace for said county, appeared William E. Williams, and made oath in due form, that the facts stated in the within writing are true to the best of his knowledge.

Sworn before and subscribed.

DANIEL RAPINE.

H.—Deposition of John Smith.

Personally appeared before the committee, John Smith, Chief Clerk in the Department of War, and, on oath, made the following statement:

That, in the Summer of the year 1808, sometime after the determination of the military court of inquiry called for the investigation of the conduct of General Wilkinson, the papers relating to that trial were in the War Office, lying on the

Secretary's table. In a few weeks after the papers were in that office, General Wilkinson came there, and after transacting some business, and as he was apparently about to leave the office, took up the said papers from the table, observing, at the time, that they belonged to him, or that they were promised to him; on which he took the papers out of the office; since which time I have not seen the said papers in the office, or heard of their being there.

Interrogatory 1st. Did you object to General Wilkinson's taking off the papers?

Answer. I do not recollect making any objection, as the transaction was sudden, and the General represented that they belonged to him, or had been promised to him, I do not remember which expression.

Interrogatory 2d. Did you inform the Secretary of War of the transaction?

Answer. I believe I did; and that he made no reply, to my recollection.

WASHINGTON COUNTY, *District of Columbia, ss:*

Personally appeared before me, one of the justices of the peace for the said county, John Smith, Chief Clerk in the Department of War, and made oath on the Holy Evangelists of Almighty God, that the within and foregoing statement and answers to the foregoing interrogatories are true, to the best of his recollection and belief. Sworn, this 17th April, 1810, before

WILLIAM THORNTON.

Letter from the Accountant of the Department of War.

DEPARTMENT OF WAR,

Accountant's Office, April 19, 1810.

SIR: Agreeably to the request contained in your letter of yesterday, I have the honor to enclose you copies of the following accounts required by the committee appointed to inquire into the conduct of Brigadier General James Wilkinson, viz:

A. Copy of the account, payment of which was ordered by General Wilkinson, for freight of flour, &c. from Baltimore to Charleston.

B. Copies of accounts for cartage of baggage by Frush and others, to Pittsburg, in 1805.

C. Copy of the account of Frederick Sandhagen for horses sold the United States, and of General Wilkinson's order for payment.

D. Copy of vouchers Nos. 19, 23 and 24, for payments made by Lieutenant George Peter for expenses attending the march of a detachment of troops from Baltimore, Washington City, and Carlisle to Pittsburg, in 1805.

In reply to your request that I would furnish copies of any other documents or papers in my office, which I might think would aid in the inquiry, I beg leave to suggest that as the accounts of General Wilkinson, in relation to this Department, are of considerable extent, it would be impracticable to furnish copies of the whole, within any reasonable period, if they were; this, however, it is presumable, is not necessary. Any particular part, or any vouchers in relation to any

Brigadier General James Wilkinson.

particular circumstance, which the committee may require, shall be furnished without delay.

I am, very respectfully, sir, your most obedient servant,

WM. SIMMONS, *Accountant.*

The Hon. Wm. EUSTIS, *Secretary of War.*

A.—Copy of the account, payment of which was ordered by General Wilkinson, for freight of flour, &c. from Baltimore to Charleston.

No. 12.

The United States to Levin Jones	DR.
February 28, 1809. For freight of the schooner Wolf, from Baltimore to Charleston, employed for the transportation of General James Wilkinson, Major Saunders, Major Robinson, Captain Williams, Consul Anderson, twenty-five non-commissioned officers, musicians, and privates, with their baggage, &c	\$1,000
For three days' demurrage at Norfolk, at \$30 per day	90
For three days' detention, pilot at Norfolk, at \$3 per day	9
	<u>\$1,099</u>

NOTE.

General Wilkinson's baggage, including fifty barrels of flour, and twelve barrels of apples	\$375
Major Saunders, Major Robinson, Capt. Williams, and Consul Anderson, at \$50 each	200
Twenty-five non-commissioned officers, musicians, privates, and waiters, at \$17 each	425
	<u>\$1,000</u>

Received at Charleston, February 28, 1808, of Lieutenant Samuel Champlain, assistant military agent for South Carolina, one thousand and ninety-nine dollars in full of the above account, having signed triplicates of same tenor and date. \$1,099.

LEVIN JONES.

The within account is correct and just, and I hereby direct Lieutenant Samuel Champlain, assistant military agent for South Carolina, to discharge the same.

JAMES WILKINSON.

DEPARTMENT OF WAR,
Accountant's Office, April 19, 1810.

I certify that this paper contains a true copy of voucher No. 12, for payments made by Samuel Champlain, and charged in his account to the United States.

WM. SIMMONS, *Accountant.*

B.—Copies of accounts for cartage of baggage by Frush, and others, to Pittsburg, in 1805.

No. 7.

PITTSBURG, May 14, 1805.

Abstract of disbursements made for the transportation of General James Wilkinson's bag-

gage and stores, from Washington City, Baltimore and Philadelphia, to Pittsburg.

1805. April 27. This sum paid James Dickey, per voucher No. 1	- - - \$72 12
1805. April 27. This sum paid Samuel Thompson, per voucher No. 2	- - - 85 44
1805. May 7. This sum paid John Frush, per voucher No. 3	- - - 31 50
1805. May 6. This sum paid John Phillips, per voucher No. 4	- - - 58 50
1805. May 11. This sum paid Jas. Cook, per voucher No. 5	- - - 15 40
	<u>262 96</u>

The assistant military agent will discharge the above, and place to account of public transport for military service.

JAMES WILKINSON.

DEPARTMENT OF WAR,

ACCOUNTANT'S OFFICE, *April 19, 1807.*

I certify that the above is a true copy of voucher No. 7, accompanied with the copies of the subordinate vouchers Nos. 1, 2, 3, 4, and 5, for payment made by Captain Moses Hooke, assistant military agent, at Pittsburg, and charged by him to the United States.

WILLIAM SIMMONS,
Accountant War Department.

No. 1.

The United States to James Dickey, Dr. To transporting sundry packages (General Wilkinson's baggage) from Washington City, to Pittsburg, weighing 1,202 pounds, at six dollars per hundred weight	- - - \$72 12
	<u>\$72 12.</u>

Received, Pittsburg, April 27th, 1805, of Lieutenant Moses Hooke, seventy-two dollars and twelve cents in full of the above account. Signed duplicates.

JAMES DICKEY.

No. 2.

The United States to Samuel Thompson, Dr. To transporting sundry packages (General Wilkinson's baggage) from Washington City to Pittsburg, weighing 1,351 pounds, at six dollars per hundred pounds	- - - \$81 06
To ditto, one box, No. 17, not included in invoice, weight seventy-three pounds, at six dollars	- - - 4 38
	<u>85 44</u>

\$85 44.

Received, Pittsburg. April 27, 1805, of Lieutenant Hooke, eighty-five dollars and forty-four cents in full of the above account. Signed duplicates.

JOSEPH x RYAN, for
SAMUEL THOMPSON.

Witness: N. PINKNEY.

Brigadier General James Wilkinson.

No. 3.

The United States to John Frush, Dr.
To transporting seven hundred pounds of General
Wilkinson's baggage, from Baltimore to
Pittsburg, at four dollars and fifty cents, \$31 50

Received, Pittsburg, May 7, 1805, of Captain
Moses Hooke, thirty-one dollars and fifty cents in
full of the above account. Signed duplicates.
JOHN FRUSH.

No. 4.

The United States to John Phillips, Dr.
1805. May 6. To transporting sundry packages
from Baltimore to Pittsburg, (General Wilkin-
son's baggage,) weighing one thousand three
hundred pounds, at four dollars and fifty cents
per hundred pounds - - - - \$58 50

Received, Pittsburg, May 6, 1805, of Captain
Moses Hooke, fifty-eight dollars and fifty cents in
full of the above account. Signed duplicates.
JOHN PHILLIPS.

No. 5.

The United States to James Cook, Dr.
To transporting from Philadelphia to Pittsburg
one cask (Gen. Wilkinson's baggage) weigh-
ing two hundred and eighty net, at five dollars
and fifty cents - - - - \$15 40

Received, Pittsburg, May 11, 1805, of Captain
Moses Hook, fifteen dollars and forty cents in full
of the above account. Signed duplicates.

DEPARTMENT OF WAR,
ACCOUNTANT'S OFFICE, April 19, 1810.
I certify that the above, and foregoing, contain
copies of subordinate vouchers, Nos. 1, 2, 3, 4, and
5, to voucher No. 7, (a copy of which is hereunto
annexed,) for payments made by Captain Moses
Hooke, assistant military agent at Pittsburg, and
charged by him to the United States.
WILLIAM SIMMONS,
Accountant Department of War.

C.—Copy of the account of Frederick Sandhagen, for
horses sold the United States, and of General Wil-
kinson's order for payment.

No. 6.

The United States to Frederick Sandhagen, Dr.
1809. May 13. For one sorrel horse with a star,
six years old, 16 hands high - - - - \$165
One brown bay do. five years old, 15½ hands
high - - - - 150
One bright bay do. six years old, 15 hands
high - - - - 135
One do. do. seven years old, 15½ hands high,
left hind foot white - - - - 150
600

Approved for payment,
JAMES WILKINSON.

Received of Abraham D. Abrahams, military
agent, the sum of six hundred dollars, for which
I have signed duplicate receipts.
F. SANDHAGEN.

Witness: P. RIVERY.

The following endorsement is on the account
of which the foregoing is a copy :

"Received the within number of horses.
"J. GIBSON,
"Lieut. and Brigade Quartermaster."

DEPARTMENT OF WAR,

ACCOUNTANT'S OFFICE, April 19, 1810.
I certify that the within is a copy of voucher
No. 6, for payment made by Abraham D. Abra-
hams, military agent at New Orleans, and charg-
ed in his account to the United States.
WILLIAM SIMMONS,
Accountant Department of War.

No. 13.

The United States to Frederick Sandhagen, Dr.
To one bay horse, five years old, 16 hands high,
black tail and mane, for use of light in-
fantry - - - - \$200

Received, New Orleans, 29th May, 1809, of
Abraham D. Abrahams, military agent, two hun-
dred dollars, in full of the above. Signed dupli-
cates.
F. SANDHAGEN.
Witness: P. RIVERY.

DEPARTMENT OF WAR,

ACCOUNTANT'S OFFICE, April 19, 1810.
I certify that the above is a copy of voucher
No. 13, for payment made by Abraham D. Abra-
hams, military agent at New Orleans, and charg-
ed in his account to the United States.
W. SIMMONS,
Accountant Department of War.

D.—Copy of vouchers Nos. 19, 23, and 24, for pay-
ments made by Lieutenant George Peter, for ex-
penses attending the march of a detachment of
troops from Baltimore, Washington City, and Car-
lisle to Pittsburg, in 1805.

No. 19.

BEDFORD, April 29, 1805.
Received of Lieutenant George Peter, the sum
of sixty dollars, in full, for transporting the bag-
gage of Lieutenant Gates and detachment, to this
place.
NICHOLAS SPONSOR,
his M mark.
Witness: SAMUEL GATES.

No. 33.


PITTSBURG, May 5, 1805.
Received of Lieutenant George Peter, the sum
of one hundred and thirty-five dollars, in full, for
transporting the baggage of the detachment under
the command of Captain McClellan, from Balti-
more to Pittsburg.
JOHN FRUSH.

Brigadier General James Wilkinson.

No. 24.

PITTSBURG, May 5, 1805.

Received of Lieutenant George Peter, the sum of one hundred and eighty-four dollars, in full, for transporting baggage of the detachment of troops under command of Captain McClellan.

HORATIO TRUNDLE,
his  mark.

Witness: N. PINKNEY, Lt.

DEPARTMENT OF WAR,
Accountant's Office, April 19, 1810.

I certify that the within are copies of vouchers Nos. 19, 23, and 24, for payments made by Lieutenant George Peter, charged in his account against the United States, for expenses attending the march of a detachment of troops from Baltimore, Washington City, and Carlisle, to Pittsburg. W. SIMMONS, Acct. Dep. War.

No. 71.

It is a fact, that our fool has written to his contemptible fabricator, that you had declared if you

had children, you would teach them to curse the United States as soon as they were able to lisp, and he gave the mayor and Gurly for authors. Cette bête is at present up to the chin in folly and vanity; he cannot be supported much longer; for, Burr or no Burr, we shall have a revolt, if he is not removed speedily. The moment Bonaparte compromises with Great Britain will be the signal for a general rising of French and Spaniards, and if the Americans do not join, they will not oppose. Take care! suspicion is abroad; but you have a friend worth having. You will see Livingston's philippic to W*****; it is replete with falsehoods, and is laughed at here by everybody. So much for the establishment of an impure character.

Yours, R. R.

Workman and Kerr have been discovered in an intrigue to corrupt the Army and to plunder the bank. It is said that Lieutenant W. A. Murray has detected them.
D. C., Esq.

No. 27.—PAPERS RELATING TO THE TOBACCO TRANSACTION.

1788.—Sales of 165 hhds. tobacco, 28 casks butter, 23 casks lard, and 159 hams, received by Major Dunn and disposed of for account of James Wilkinson, Esq., Kentucky.

To whom sold.	Hhds. tobacco.	Casks.		Hams.	Weight.	Price.	Paper.	Silver.
		Butter.	Lard.					
To Government - - -	137	-	-	-	118,466	25 ms.		\$10,887 04
His Excellency - - -	-	1	-	-	109			
His Excellency - - -	-	-	1	6	78			
Mr. Navarro - - -	-	1	-	-	65			
Mr. Navarro - - -	-	-	1	6	77			
Contadore - - -	-	1	-	-	51			
Contadore - - -	-	-	1	6	78			
Clarke & Rees—Auditor - -	-	1	-	-	77	2	\$19 02	
Clarke & Rees—Auditor - -	-	-	1	3	31	1½	7 06	
Clarke & Rees—Piernas - -	-	-	1	-	78	1½	14 05	
Clarke & Rees—Piernas - -	-	-	-	6	60	2	15 00	
Don Andres Armesto - - -	-	1	-	-	74			
Don Andres Armesto - - -	-	-	1	6	64			
Cash - - -	-	1	-	-	21	2½	6 04	
Mr. Morales - - -	-	-	2	-	116	1½	21 06	
Jacob Cowperthwaite - - -	-	-	1	-	78	1½	14 05	
Jacob Cowperthwaite - - -	-	-	-	3	25	2½	7 04	
Mr. Morales - - -	-	-	-	5	45	2	11 02	
Mr. Guerin - - -	-	1	-	-	52	2½	16 02	
Mr. Brion - - -	-	1	-	6	58			
Mrs. Duforest - - -	-	-	-	6				
Clarke & Rees - - -	-	1	-	-	72	2	19 02	
Clarke & Rees - - -	-	-	209	-	209	1½	39 01	
Clarke & Rees - - -	-	-	-	6	50	2	12 04	
James Jones - - -	-	1	-	-	77			
James Jones - - -	-	-	1	6	76			
Cash - - -	-	1	-	-	64	2½	20 00	
Cash - - -	-	-	1	-	32	1½	6 00	

Brigadier General James Wilkinson.

No. 27.—Continued.

James Wilkinson, Esq., in account current with Clarke & Rees.

To whom sold.	Hhds. tobacco.	Casks.		Hams.	Weight.	Price.	Paper.	Silver.
		Butter.	Lard.					
Clarke & Rees—Treasurer	-	1	-	-	76	2	19 00	
Clarke & Rees—Treasurer	-	-	-	6	43	2	10 06	
Cash	-	-	-	5	56	2	14 00	
John Machey	-	-	-	3	18	2	4 04	
Mr. Morales	-	-	2	-	144	1½	27 03	
Clarke & Rees—Marcos	-	1	-	-	67	2	16 06	
Clarke & Rees—Marcos	-	-	1	-	57	1½	10 05	
Clarke & Rees—Villavaso	-	1	-	-	50	2	12 04	
Clarke & Rees—Villavaso	-	-	1	-	30	1½	5 05	
Clarke & Rees—Mr. Maxent	-	1	-	-	78	2	19 04	
Clarke & Rees—Mr. Maxent	-	-	1	-	80	1½	15 00	
Mr. Dow	-	1	-	-	76	-	-	
Mr. Dow	-	-	-	6	60	-	-	
Cash	-	-	1	-	56	1½	10 04	
Clarke & Rees—Perdomo	-	-	-	3	30	2	7 04	
Cash	-	-	-	2	14	2½	4 03	
Cash	-	-	-	4	17	2½	5 04	
Cash	-	-	-	1	8	2	2 00	
Cash	-	-	-	2	17	2½	5 04	
Cash	-	-	-	1	8	2	2 00	
Cash	-	1	-	-	73	20 sous	14 04	
Cash	-	1½	-	2	20	1½	3 06	
Cash	-	1	-	-	67	2	16 06	
Mr. Pontalba	-	1	1	-	69	2	17 02	
M. La Villebeuvre	-	1	-	-	60	2	15 00	
Joseph Tarel	-	-	-	7	82	1½	15 03	
Mr. Jourdain	-	-	1	-	39	1½	7 02	
Joseph Farel	-	-	-	12	100	1½	18 06	
Mr. Conway	-	1	-	-	68	-	-	
Mr. Conway	-	-	1	6	54	-	-	
Joseph Farel	-	-	-	5	36	1½	66 00	
Mr. Ballinger	-	-	-	10	80	-	-	
Howard and others, who re- turned to Kentucky	-	-	-	10	94	-	-	
Batiste	-	1	-	-	60	1½	11 02	
Cash	-	-	1	-	64	1½	12 00	
Mr. Jones, three flats	-	-	-	-	-	-	39 04	
Cash, 160 lbs. tobacco	-	-	-	-	-	-	9 04	
On hand	-	5	-	9, rotten.	-	-	612 00	\$10,887 04
612 paper dollars, at 152 per cent.	-	-	-	-	-	-	-	402 05
								\$11,290 01
<i>Charges, viz :</i>								
Paid for two blocks for the press	-	-	-	-	4	4	-	
Five men for one day's work at ditto	-	-	-	-	4	4	-	
Mr. Mattain, for two days' work of a negro	-	-	-	-	1	4	-	
Jean Jeanas, per receipt	-	-	-	-	10	0	-	
Six ells Osnaburghs, intended to make carrots	-	-	-	-	3	0	-	
Pardomo, fees on discharging	-	-	-	-	28	4	-	
Eltienne, for one day's work of three negroes	-	-	-	-	2	2	-	
Don Andres, for hire of his negro John	-	-	-	-	3	4	-	
James Jones, for two demijohns rum	-	-	-	-	30	0	-	
Cartage of provisions and tobacco	-	-	-	-	4	4	-	
Hire of Prince and Lancaster, from June 13 to July 25	-	-	-	-	84	0	-	
Storage, at 15 ps. p. per month	-	-	-	-	20	0	-	
Proportion of making the press	-	-	-	-	17	4	-	
Leolleau & Faler, for nine fathoms rope	-	-	-	-	2	5	-	

Brigadier General James Wilkinson.

No. 27.—Continued.

James Wilkinson, Esq., in account current with Clarke & Rees.

<i>Charges, &c.</i>	<i>Weight.</i>	<i>Price.</i>	<i>Paper.</i>	<i>Silver.</i>
Hire of Jesse twenty-five days, at six bells - - -	18	6		
For one-half coil 3½ inch rope, for the flats and press - -	28	0		
For rice for Messrs. Gaillard & Poussell's negroes - - -	15	0		
Mather & Strother, for taffia - - - - -	60	0		
Mrs. Gaillard's negroes, for working on Sunday - - -	1	0		
Emerson & Frank, per receipt - - - - -	-	-	60 00	
Mrs. Gaillard, for hire of negroes - - - - -	20	0		
Jean Rasque, per receipt - - - - -	7	4		
Jourdain, amount of his account - - - - -	321	6		
Duty on tobacco, &c. - - - - -	586	6		
Fees at the Intendant's office - - - - -	15	0		
Commission on 11,290 pounds at 5 per cent. - - - -	-	-	564 04	
	1,290	1	625 04	
	30	0		
	1,260	1	829 00	
	-	-		1,454 04
Net proceeds - - - - -	-	-	-	\$9,835 05

No. 27.—Continued.

James Wilkinson, Esq., in account current with Clarke & Rees.

	<i>Dr.</i>		
1787.			
Aug. 27	To balance of account of this date - - - - -	-	\$4 00
	To cash lent him, per note - - - - -	-	3,000 09
1788.			
April 17	To cash paid William and Richard Thomas, per receipt - - -	-	90 00
May 15	To cash paid Joshua Barbie, per receipt - - - - -	-	100 00
	To cash paid James Ferguson, per his order - - - - -	\$52 04	
July 12	To cash paid his bill, in favor of L. T. Beauregard - - -	-	1,026 06
July 14	To cash paid his bill, in favor of Sportsman - - - - -	-	861 00
	To cash paid his bill, in favor of Ballinger - - - - -	-	360 00
July 29	To cash paid Major Dunn, per account - - - - -	281 2	3,839 00
Aug. 8	To Captain William McFaden, on account of Major Dunn, for three pas- sages in the schooner Navaro - - - - -	-	180 00
		\$333 06	
	\$333 6 exchange, at 152 per cent. - - - - -	-	219 00
	To cash paid Major Dunn, in full - - - - -	-	355 07
			\$10,185 00
1788.			
July 29	By net proceeds of sales made for his account - - - - -	-	\$9,835 05
	By a negro man named Jesse - - - - -	-	350 00
			\$10,185 05

N. B.—There is a quantity of tobacco on hand, in bulk, weight unknown. Also, seven hogsheds full, which have not been weighed, for which we hold ourselves accountable, conformable to the sales we shall make thereof. We also hold ourselves accountable for one hogshhead of tobacco, which was received among Mr. Christopher Thompson's tobacco, weight 913 pounds, when the King shall be pleased to pay for the same. Errors excepted.

NEW ORLEANS, August 8, 1788.

CLARKE & REES.

By virtue of the powers in me vested by James Wilkinson, Esq., I do hereby acknowledge and declare that I have examined the above account, and that I have received from Messrs. Clarke and Rees, of New Orleans, merchants, the several articles and payments in the said account, balanced as it stands, this 8th day of August, 1788.

ISAAC B. DUNN.

Brigadier General James Wilkinson.

No. 29.—Sales of 342 hogsheads of tobacco, shipped by James Wilkinson, (in the purchase of which the sum of £279, a balance due Daniel Clarke, Esq. for his half of the proceeds of the bateau Speedwell, was invested, and in proportion thereto said Clarke is interested,) consigned to Philip Nolan, New Orleans.

Sold to Government 226,649 lbs. net, at \$80 per 1,000	-	-	-	-	-	\$18,131 07
Charges.						
Paid for picking, in hard money,	-	-	-	-	\$149 00	\$165 03
Lost, to procure this money, 11 per cent.	-	-	-	-	16 03	
Paid the pickers in paper money	-	-	-	-	88 00	93 02
Lost, to procure this money, 6 per cent.	-	-	-	-	5 02	
Sundry expenses, to be explained by P. N.	-	-	-	-	105 00	115 04
Lost, to procure this money,	-	-	-	-	10 04	
Mr. Ballinger's board thirty days, at one dollar,	-	-	-	-	30 00	30 04
Lost, to procure this money,	-	-	-	-	04	
Mr. Nolan's allowance from the 27th July until the 25th September, sixty days, at \$2 50 per day	-	-	-	-	150 00	165 00
Lost, to procure this money, 10 per cent.	-	-	-	-	15 00	
Cooperage, per account,	-	-	-	-	-	541 04
Proportion of expense to be deducted	-	-	-	-	-	1,111 01
						329 05
						781 04
Deducted from the invoice	-	-	-	-	-	17,350 03
						1,500 00
						\$15,850 03

Errors and omissions excepted. PHILIP NOLAN.

NEW ORLEANS, September 21, 1789.
[See Wilkinson's account current with Clarke and Rees, dated May the 1st, 1789, contained in the account book, page 30.]

No. 30. LEXINGTON, KENTUCKY, May 20, 1790.

GENTLEMEN: I lament that I should be obliged to address you at this late day, but the causes producing the delay have been insuperable.
This will be handed to you by my agent, Mr. Philip Nolan, who carries with him, and will exhibit to you for final settlement, the account of the unfortunate adventure by the Speedwell, he being specially authorized by me for that purpose. Amidst the embarrassments which result to me from this fatal expedition, it is with pleasure I reflect that whilst I am obliged to abide a dead loss on the sales, without remedy or consolation, you must feel yourselves indemnified by the advance you had upon the merchandise originally furnished from your store to the adventure, and for which you received cash. The proceeds of this adventure are vested in tobacco at a very low price, which will, I hope, get a good market.
You will observe that I have consigned this cargo to Mr. Nolan, and authorized him to act for me in the storage, inspection, &c., because the quantity now shipped will overrun the claims of the owners of the Speedwell nearly two-thirds, and I have determined to make no discrimination in the cargo, for fear of accidents to the boats, which might be assigned to the account of the Speedwell, or lest I should subject myself to imputations of partiality to my private interest, and be charged with selecting the best tobacco. No difficulty can offer in the settlement; because, when the costs and charges, and the net profits of the whole cargo are ascertained, the proportion due to the owners of the Speedwell can be readily established. This is the principle of settlement which I have directed my agent to take for his guidance, and to which I shall invariably adhere.

Brigadier General James Wilkinson.

I am sorry to inform you that one of our flats, after having been loaded with forty hogsheads, sprung a leak, and, in spite of our endeavors, sunk; the tobacco is wet, but I believe we shall be able to save the greatest part of it, though it will involve the inevitable detention of this tobacco until my next shipment, when it will go down on the same principles of the present cargo, of which it is indeed a part.

I have directed Mr. Nolan to require the original vouchers, on which the accounts rendered by you last year are founded, many of them being absolutely necessary to my own indemnity against the persons collaterally interested or connected in them.

I have the honor to be, gentlemen, your most obedient servant,

JAMES WILKINSON.

Messrs. CLARKE & REES, Merchants, New Orleans.

No. 31.

LOUISVILLE, June 20, 1790.

GENTLEMEN: Your surprise at hearing from me at this late date cannot exceed the mortification and regret I feel from the delay. My boats unfortunately grounded in Kentucky river, and were left by the flood. Mr. Nolan will give you the details, and will explain to you the personal hardships and risks I have been exposed to for three weeks past.

Events have justified the propriety of my making no distinction in the tobacco shipped at this time, or allotting any separate portion for the account of the Speedwell, as three of the fleet which sailed are still aground in Kentucky river, with 118 hogsheads on board. The tobacco Mr. Nolan now takes down can be appropriated on the same equitable principles, and the same just scale of proportion set forth in my letter of the 20th of May. The drowned tobacco is, by this time, completely recovered, I expect, at a loss of 12 or 15,000 pounds. I shall ship it, and it will go down with the three boats which are aground, so soon as the flood offers, which I expect must take place in the course of the month.

The stoppage of the boats has been attended with some additional expense, which was unavoidable, in the measures necessary to get them out of Kentucky river, and secure the tobacco.

With due respect, I am, gentlemen, your most obedient servant,

JAMES WILKINSON.

Messrs. CLARKE & REES.

No. 32.—Messrs. Wilkinson and Dunn, their account current with Clarke and Rees.

	Dn.	Paper.	Exchange.	Silver.
1788.	To their half adventure to Kentucky, in company, per bateau Speedwell - - - - -	-	-	4,087 07
				4,087 07
1789.	To balance brought down - - - - -	-	-	1,087 07
May 6,	To cash paid Moses and John Moore, an error discovered to their prejudice, in account with you after we had ad- justed accounts with Captain Dunn, and paid him the balance - - - - -	-	-	43 07
	To cash paid General Wilkinson's order, favor of G. I. A. Elholm, - - - - -	-	-	129 04
	To twenty-eight pounds of bacon supplied Mr. Ballinger, at 2½ - - - - -	8 06	120	7 02
June 4,	To cash paid Joseph Ballinger - - - - - 100 00			
	To cash paid Joseph Ballinger - - - - - 8 00			
July 20,	To cash paid P. Nolan - - - - -	-	-	108 00
	To cash paid P. Nolan in paper - - - - -	121 07	127	6 00
July 21,	To cash paid your order, favor of R. McGillier - - - - -	-	-	96 00
July 25,	To cash paid Greenberry Dorsey - - - - - 267 06½			150 00
	To cash paid Philip Nolan - - - - - 387 04			
July 31,	To cash paid Mr. Minor, amount of your note - 92 07			
	To cash paid A. White and Shoemaker - - - 29 06			
		767 07½	130	590 06
Aug. 2,	To cash paid Hipps Taylor - - - - - 12 06			
Aug. 12,	To cash for four ells of silk - - - - - 12 00			
		24 06	125	19 06
	To our assumption to Mather and Strother for a horse for Mr. Ballinger - - - - -	-	-	100 00

Brigadier General James Wilkinson.

No. 32—Continued.

1788.	Dr.	Paper.	Exchange.	Silver.
Aug. 12,	To sundries supplied Mr. Ballinger at Natchez, on his way to Kentucky, viz: 1 saddle - - - - - 40 00 1/2 yard of blue cloth - - - - - 6 00 1 pair stockings - - - - - 3 00			
		49 00	150	32 06
	To cash you received for three flats - - - - -	-	-	14 00
	To your order, favor of Colonel Ellzey, £14 Virginia currency - - - - -	-	-	46 04
	To cash you received from the Governor of Virginia, £1,014 15 10, Virginia currency, dollars at six shillings	-	-	3,382 03
	To so much you received from the State of Virginia - - - - - £1,256 3 6	-	-	
	Deduct 20 per cent. - - - - - 251 4 8	-	-	
				3,349 04½
	Balance due Wilkinson and Dunn - - - - - £1,004 18 10	-	-	12,464 07½
			Hard dolls.	21,632 05
Sept. 2,	To cash paid G. M. - - - - -	-	-	3,000 00
Sept. 3,	To cash paid Philip Nolan for Mr. Duncan, per your order - - - - -	-	-	6,800 00
Sept. 4,	To cash paid John H. Craig, per Nolan's order - - - - -	-	-	471 03
	To cash paid Philip Nolan's order, favor of John Pickett - - - - -	-	-	1,101 07
	To cash paid Philip Nolan's order, favor of Wm. Pauling, - - - - -	-	-	789 04
	To cash paid Philip Nolan, per receipt - - - - -	-	-	300 00
Sept. 5,	To cash paid Philip Nolan, in full - - - - -	-	-	48 05½
	Errors excepted.		Dolls.	12,511 03½
	JAMES WILKINSON.			
	NEW ORLEANS, Sept. 5, 1789.			
1788.	Cr.			
	By cash received from the Governor - - - - -	-	-	5,000 00
	Balance due on this account - - - - -	-	-	1,087 07
				4,087 07
Dec. 31,	By net proceeds of sales of 5 casks of butter, 1 hhd. of tobacco, and 30,732 pounds of tobacco, loose, left by Mr. Dunn - - - - -	1,479 04	160	934 06
1789.				
May 17,	By net proceeds of sales of 38 casks of lard, per Captain Dunn - - - - -	-	-	78 04
June 13,	By cash returned by Mr. Ballinger - - - - -	-	-	1,650 00
Aug. 15,	By net proceeds of sales of 27 casks of butter, per Captain Dunn - - - - -	-	-	162 04
	By so much charged you, in an account rendered May 1, for Mr. Nolan's expenses, through the Creek nation - - - - -	-	-	99 02
	By cash paid Captain Hoops, £280 Virginia currency - - - - -	-	-	933 02½
	By first of adventures, &c. with charges - - - - -	-	-	13,991 00
	By adventures from Kentucky, in company, for your half gain - - - - -	-	-	3,355 02½
	By amount of Philip Nolan's account - - - - -	-	-	374 00
	By Daniel Clarke, for Deputy Surveyor's fees paid in Richmond - - - - -	-	-	32 00
	By Daniel Clarke, paid for advice in suit against Foster Webb - - - - -	-	-	32 00
	Errors and omissions excepted.		Hard dolls.	21,632 05
	WILKINSON & DUNN.			
	NEW ORLEANS, August 29, 1789.			
	By balance brought down - - - - -	-	-	12,464 07½
	By a note returned, which was charged you in favor of Colonel Ellzey, for £14 Virginia currency - - - - -	-	-	46 04
			Dolls.	12,511 03½

Brigadier General James Wilkinson.

J. Wilkinson's order on D. Clarke, Sen.

SEPTEMBER 4, 1789.

DEAR SIR: Will you be so good as to answer to Mr. Nolan, the balance in your hands, for your friend,

J. WILKINSON.

To DANIEL CLARKE, Esq.

Receipt.

NEW ORLEANS, Sept. 5, 1789.

Received of Messrs. Clark and Rees \$48 5/2 rials, the balance due James Wilkinson, as stated in Messrs. Clarke and Rees's account current.

For James Wilkinson,

PHIL NOLAN.

No. 33.—Philip Nolan's Declaration.

NEW ORLEANS, Sept. 10, 1790.

I, Philip Nolan, agent for James Wilkinson, Esq., being applied to by Daniel Clarke, Junior, attorney of Clarke and Rees, to investigate an account settled the 5th September, 1789, between Clarke and Rees, merchants of this place, and the aforesaid James Wilkinson, Esq., do declare that there is an error in the said account, amounting to four hundred and seventy-three silver dollars two rials, to the prejudice of Clarke & Rees, occasioned by their giving him credit twice in their account for the aforesaid sum of four hundred and seventy-three silver dollars two rials, being my expenses on my journey from hence to Kentucky, in the year 1788.

PHILIP NOLAN.

No. 4.—James Wilkinson's accountable receipt for our part of the cargo, per Speedwell's proceeds, and for a debt due by Craig and Johnson, for £318 13s. 7d.

I do hereby acknowledge that I have not accounted with Daniel Clarke for his half of the adventure of merchandise, shipped per the bateau Speedwell, Jean Massey, patroon, from New Orleans to the Falls of the Ohio, consigned to Wilkinson and Dunn; and that I will invest, and ship the proceeds of the said adventure, which still remains in our hands, in good and merchantable tobacco, to him, in the month of December next.

I also acknowledge that I have a debt due to the said Clarke from Craig and Johnston, for three hundred and eighteen pounds, thirteen shillings, and seven pence, Virginia currency, under my direction; and that I will, or my heirs, in case of my death, ship tobacco to him to the amount thereof, as soon as I, or they, shall recover the same; and when these several obligations into which I now enter are fulfilled by me or my heirs, that the articles of writing, declaratory of a connexion with the said Clarke, by Wilkinson and Dunn, bearing date the 7th of August, 1788, shall be void, and of no effect; and, also, that the power of attorney which I have had from said Clarke shall be cancelled, and of no effect from this day.

As witness my hand, at New Orleans, this 18th day of September, in the year of our Lord one thousand seven hundred and eighty-nine.

JAMES WILKINSON.

No. 3.—Articles of agreement between Wilkinson and Dunn and Daniel Clarke, Sen.

To all persons to whom these presents shall come, GREETING:

Know ye, that James Wilkinson and Isaac B. Dunn, of the District of Kentucky, now in the State of Virginia, Esquires, of the one part, and Daniel Clarke, of the town of New Orleans, on the Mississippi, merchant, of the other part, do hereby consent and mutually agree to carry on a commerce between the said District of Kentucky and the town of New Orleans aforesaid; that is to say:

That the said James Wilkinson and Isaac B. Dunn shall purchase in the District of Kentucky, or any other of the settlements on the waters of the Ohio, within the State of Virginia aforesaid, to wit: tobacco, flour, butter, tallow, hogs' lard, beef, pork, bacon, and bacon hams, on the joint account and risk of the said James Wilkinson, Isaac B. Dunn, and Daniel Clarke, and the same to be sent down in good order (dangers of the river excepted) to the town of New Orleans, addressed to the aforesaid Daniel Clarke, to be by him converted into cash, for the common benefit of the said James Wilkinson, Isaac B. Dunn, and Daniel Clarke, in the particular ratio hereafter written.

And likewise, that the said Daniel Clarke shall purchase and send to the falls of Ohio, on account and risk of the aforesaid James Wilkinson, Isaac B. Dunn, and Daniel Clarke, addressed to the said James Wilkinson and Isaac B. Dunn, such European and West India commodities as shall jointly be deemed necessary for the use and consumption of the aforesaid settlements on the Ohio, to be by them converted into cash, or such articles of produce as are herein named, for the joint benefit of the said James Wilkinson, Isaac B. Dunn, and Daniel Clarke, in the particular ratio hereafter mentioned.

Now, be it remembered, and it is hereby declared and made known, that the said parties are to be interested in the said commerce, in the following proportions, viz:

James Wilkinson to have and enjoy one-fourth part of the profits which shall appear to arise from the said trade, to be carried on agreeably to the letter and spirit of the contract, from Kentucky to this place, and from this place to Kentucky, and also to sustain one-fourth part of any loss that may happen to the parties in the said trade.

In like manner shall Isaac B. Dunn share and enjoy one fourth part of the profits which shall arise from the aforesaid commerce, and in like proportion bear any loss that may happen to the parties in the course of the said connexion.

And likewise, that the said Daniel Clarke shall

Brigadier General James Wilkinson.

have and enjoy of the profits which shall arise from the said trade, one half, or equal moiety of the whole, and bear, in like proportion, any loss that may be sustained by the parties in the course of their said connexion.

Further, it is agreed by the contracting parties, that this connexion shall take place on the 1st day of December next, and continue until dissolved by mutual consent of the said parties, or by prohibition of this Government: *Provided, always,* That no tobacco which shall be sent down by James Wilkinson, Esq., antecedent to the 1st day of December next, shall be considered, in any wise, a property falling within the present connexion.

And whereas, Daniel Clarke is now preparing to make a shipment of merchandise to the aforesaid falls of Ohio: Be it known, that the merchandise is for account and risk of the aforesaid James Wilkinson, Isaac B. Dunn, and Daniel Clarke, in the proportions aforesaid.

Lastly, be it remembered, that the said James Wilkinson and Isaac B. Dunn shall not charge commissions for what they buy or sell, at any part of the settlements of Kentucky, or on the waters of the Ohio, for account of the parties in this concern; nor shall the said Daniel Clarke charge any commission for all or any business he shall transact at New Orleans for account of said concern.

In witness whereof, the parties have hereunto interchangeably set their hands and seals, at New Orleans, this 7th day of August, 1788.

For James Wilkinson and self,

ISAAC B. DUNN. [J. S.]
DANIEL CLARKE. [L. S.]

Signed, sealed and delivered, in presence of

A. HOOPS,
PHILIP NOLAN.

No. 2.—Wilkinson to Clarke.

RICHMOND, Oct. 27, 1807.

DEAR SIR: A friend having proposed a publication relative to scenes of eighteen or twenty years' standing, I furnished him your extract from the memoir you transmitted Mr. Pickering in 1796-'7. Being a public document, I could see no impropriety in this, and I hope you may concur in the same opinion, seeing that it was an interesting paper to me, assailed as I am by the worst, the merest demons that ever infested the earth. So soon as I have adjusted a single point here, I shall be with you, and am,

With respect and esteem, yours,

JAMES WILKINSON.

The Hon. D. CLARKE.

Depositions of Daniel W. Cox and Walter Jones.

Deposition of Walter Jones, Esq.

The deposition of Walter Jones, Junior, who officiated as judge advocate and recorder to the military court of inquiry, instituted in the month of January, 1808, for the investigation of certain charges against Brigadier General James Wil-

kinson; which deposition is taken before the committee of the House of Representatives appointed to inquire into the conduct of Gen. Wilkinson.

The deponent, in answer to sundry inquiries of the Committee, in relation to the evidence and documents produced before the court of inquiry, and filed among the records of its proceedings, the manner in which they were disposed of, and whether the papers, lately returned by General Wilkinson, do in fact constitute the whole of those properly belonging to the records of that court, deposes and swears as follows:

On the 16th February, 1808, after several meetings of the court of inquiry, and fruitless attempts to bring forward the evidence relied on to support the charge against General Wilkinson, he came before the court, and made his petition that the affidavit of Mr. Daniel Clarke, which had been laid on the table of the House of Representatives, and a certified copy of which had, with other papers, been transmitted by the President of the United States to the judge advocate, might be received by the court "at its intrinsic value," or, for as much as it was worth;" he, General Wilkinson, waiving all objections as to form, and to the legal competency of the affidavit to be read in evidence, but reserving to himself the advantage of all objections on the score of credibility, and taking upon himself to discredit or to contradict the evidence of Mr. Clarke. The certified copy of this affidavit was accordingly read and filed as evidence; the judge advocate admitting, as a matter of course, that the accused was free to urge every objection, and to produce all competent evidence affecting the credit of the witness. The judge advocate, at the same time, filed, *de bene esse*, certified copies of the documents laid on the table of the House of Representatives, by Mr. RANDOLPH, which were reserved upon file for further proof.

At the subsequent sittings of the court, General Wilkinson produced and examined several witnesses in his defence. According to my recollection, and the minutes I have preserved of the course of those examinations, he undertook to discredit the evidence of Mr. Clarke upon three grounds:

1st. By imputing to the witness a particular motive for malice against the person accused, arising out of his, Mr. Clarke's, alleged connexion with Burr's conspiracy, and the vindictive passions of those conspirators, supposed to be directed against General Wilkinson on account of his active agency in their final suppression. To this point he produced the following witnesses, viz: Lieutenant William A. Murray, Lieutenant Robert T. Spence, John Graham, and Benjamin H. Latrobe, whose examinations were taken down in writing and filed.

2d. By undertaking to prove prior declarations of Mr. Clarke, upon the subject-matter of his affidavit, inconsistent with the statement contained in it. To this point he produced the following witnesses, viz: Robert Wright, Governor of Maryland, General Samuel Smith, of the Senate, Willis Alston, of the House of Representatives,

Brigadier General James Wilkinson.

James Lowry Donaldson, of Baltimore, and Dr. Walter Jones, of the House of Representatives, whose examinations were severally taken down and filed. To this point, he also produced the deposition of Colonel William Lowry, of Baltimore, and a memoir from the Secretary's office, entitled "History of the Trade of Louisiana," which is an exhibit referred to in Mr. John Graham's examination.

3dly. By attempting to disprove a circumstance mentioned in Mr. Clarke's affidavit, viz: his spending three days and nights in General Wilkinson's tent at Loftus Heights, in October, 1798; for that purpose the deposition of Dr. J. F. Carmichael was produced and filed.

General Wilkinson also took the deposition of Mr. Daniel W. Coxe, of Philadelphia, for the purpose of proving some circumstance to the disadvantage of Mr. Clarke. I have but an indistinct impression left upon my mind of the particulars sworn to by Mr. Cox, except that, after negating the interrogatories of General Wilkinson, suggesting anything to the disadvantage of Mr. Clarke, the witness proceeds voluntarily to disclose all the circumstances within his knowledge, corroborative of Mr. Clarke's evidence, or of the integrity of his motives.

The last witness produced by General Wilkinson, and the last evidence of any kind brought forward by him, prior to his delivering in his defence in writing, was Mr. Oliver Pollock, by whom he undertook to prove the innocence of his Spanish transactions and connexions, from circumstances within the personal knowledge of the witness; his examination was also taken down in writing and filed.

On the part of the prosecution, the following additional evidence was produced and filed, viz:

The deposition of Andrew Ellicott, who was required to state the whole of his knowledge and information relative to any transactions or connexion between Gen. Wilkinson and the Spanish government of Louisiana, or any of the officers or agents of that Government.

Also, the deposition of Robert Goodloe Harper, to corroborate Mr. Clarke's evidence, by proving prior conversations between them, in which the evidence relied upon by General Wilkinson, to fix upon Mr. Clarke inconsistent and contradictory declarations, was attempted to be rebutted or explained.

This, according to the best of my recollection, refreshed by the rough minutes and loose papers relative to the proceedings of the court, yet in my possession, was the whole of the evidence before the court when General Wilkinson rose to deliver his defence.

The court of inquiry had stood adjourned for some considerable time, when it met in June, 1808, for the purpose of bringing the case to a conclusion. During that month I was particularly, and almost constantly, engaged in attending to my professional duties at the circuit court of this district, then in session. I did, with some difficulty, contrive to attend the court of inquiry for the two days taken up by General Wilkinson, in de-

livering his defence, which was commenced on Friday, the 24th, and concluded on Saturday, the 25th June, 1808. In the course of reading his defence, he produced a great number of papers, referred to as exhibits, consisting of documents and affidavits which had never before been submitted to the court. Captain Fenwick, of the marines, sat by with these papers, arranged in regular order, and handed them over as they were called for in the progress of the defence. Every exhibit so referred to, and called for, was successively handed over to me as judge advocate and recorder, and carefully filed among the records of the court. I kept a rough minute, or numerical list of the new papers and documents quoted and produced by General Wilkinson upon that occasion, by reference to which I find that he produced fifty-five new exhibits, many of them comprising sundry enclosures not particularly noted. This list, or a fair copy, I am ready to produce to the committee, if required. The instant that the defence was concluded, I collected together, in the best order I could, all the papers belonging to the records of the court, and left them, with the three members, for their examination, in order to the making up, and forming their opinion in private. It was agreed between us that, while they were engaged in this investigation, my presence might be dispensed with until the members should have definitively made up their decision. In the morning of the 28th of June, I was called upon to meet the court of inquiry, and found that the definitive opinion of the court was ready drawn up in writing; it was then signed by the members in my presence; and, together with all the papers, delivered up to me for the purpose of making up a record of the proceedings in due form, and transmitting the whole to the War Department. The court, at the same time, communicated to me their request that, in making up the record, I should prefix to their opinion a methodical statement or summary of all the evidence in the case, as well oral as documentary. The completion of the duties thus remaining to be executed by me as judge advocate, would, under the pressure of other business, then upon my hands, have required from ten days to a fortnight. General Wilkinson was, as I understood, very urgent to have his fate finally decided and promulgated prior to the then ensuing anniversary of independence; and I received either a note or a verbal message (I cannot now say with certainty which) from the Secretary of War, requesting me immediately to transmit the opinion of the court, and all the requisite evidence and documents to be returned to me as soon as the President of the United States should have considered them.

I immediately set about making the best arrangement, in my power, of the papers; distributing them into several bundles in such order as might enable the President to go through the examination of them with the least labor, and to the best advantage; for easily understanding the relation of each to the points of the case, each bundle having a label, on which its general con-

Brigadier General James Wilkinson.

tents were noted in my handwriting. I recollect that General Wilkinson's defence constituted one of the bundles, and the new exhibits referred to in it another. On the same, or the next day, after the court had delivered their opinion, the papers were sent, in the state I have described, to the War Department, accompanied by a letter from me to the Secretary, stating to him the informal condition in which the record was transmitted, according to his request, and the necessity of having the papers returned to me, as soon as the President should have done with them, for the purpose of completing the record. It is proper to mention that, upon looking over the loose papers and minutes, relative to the proceedings of the court of inquiry, yet in my possession, I find that, from some cause which I cannot now with certainty account for, but, it is probable, from casual inadvertence, I omitted sending one original document, properly belonging to the evidence in the case, and which I now produce to the Committee, and that is the memoir entitled "History of the Trade of Louisiana," referred to in Mr. John Graham's examination.

I heard nothing further on the subject till I saw, in the National Intelligencer, of the 4th of July, 1808, the opinion of the court of inquiry, approved by the President of the United States. My professional engagements continued to occupy me, without intermission, for a considerable time afterwards; and when I did find myself at leisure to undertake the completion of the record, I learned that Colonel Burbeck, the President of the court, whose signature was necessary, in addition to my own, in order to authenticate the record, had been, in the meantime, detached to some distant post. As the President of the United States had already acted upon the case, and there was no immediate necessity for a more complete record, I thought it as well to postpone the matter in expectation of Colonel Burbeck's return in some reasonable time. It was not till some time late in September, or early in October last, soon after my return from the country, that I heard of Colonel Burbeck's being in town, and it immediately occurred to me that it was a good opportunity to finish my long postponed task. For that purpose I requested one of the clerks in the War Department, with whom I accidentally met, to send me the papers. After some time, and upon further application, I was informed they were missing, but it was some time before it could be distinctly understood what had become of them. It was sometime during this winter that I was informed that it was certainly ascertained General Wilkinson had taken possession of them. I do, with the utmost certainty, aver that, until the information came to me in the time and manner I have just described, I had all along remained in the most assured security that the papers were safely deposited, and carefully preserved in the War Office, ready for me to act upon, whensoever the proper opportunity should occur for making up the record in due form; and that I had never the least suspicion or knowledge of the fact that they were in the

custody of General Wilkinson, nor of any circumstance that could render the supposition of such a fact in the least degree probable. I do recollect that, on the day I transmitted the papers to the War Department, General Wilkinson, requested that, when they came again into my possession, he might have the loan of his defence, in order to correct or retouch the language, preparatory to a publication of it; that, I informed him, was an indulgence I had always thought it reasonable to allow persons in his situation, reserving to myself, however, the privilege of seeing that no material statement contained in the defence should be substantially varied. I do further recollect that he expressed a desire to have a full copy of the whole record and documents, which I informed him he would, as I conceived, be entitled to request from the War Department.

I have, at the request of the committee, looked over (without making, however, any particular examination of their respective contents) the bundle of papers said to have been returned by General Wilkinson, as all the documents in his possession, relative to the court of inquiry, and I am not enabled to say, either from my own recollection, or from any written memoranda in my possession, that there is now any deficit among those papers which constituted the evidence of witnesses, and the documentary evidence produced and filed prior to the time of General Wilkinson's delivering in his defence. Of the other papers transmitted by me to the War Department, together with those last mentioned, and as a parcel of the same proceeding, there are missing the whole of General Wilkinson's written defence, and all those fifty-five exhibits, produced for the first time, in the course of delivering that defence, except that I perceive, in the bundle, certain papers which I believe to be four of those exhibits, viz: the affidavits of Silas Dinsmore, Dr. G. E. Pendegrast and Captain John Bowyer, and certain extracts from the correspondence of the Louisiana commissioners with the Secretary of State. I perceive, in the bundle, one paper, viz: John Brown's affidavit, of which I have no recollection, nor any written memorandum; it may, however, have been among those upon the file of the court, and may have been overlooked or forgotten.

The circumstances attending the original production of the papers now missing, and the transient manner in which they passed through my hands, must satisfactorily account for the imperfect answer I am obliged to make to the inquiries of the committee into the contents of a certain part of them; it was for the purpose of accounting for this that I have dwelt so minutely upon certain points that might otherwise appear to be frivolous.

As to the account current between General Wilkinson and Governor Miro, mentioned in the opinion of the court, the following is all that I can at present recollect concerning it, either from my own memory or any written memorandum in my possession.

It was emphatically commented on by Gene-

Brigadier General James Wilkinson.

ral Wilkinson, as having been fortunately preserved through the many casualties and hazards to which his papers had been exposed, and by which many of them had been destroyed, and as furnishing demonstrative evidence of the innocence of his transactions with the Spanish Governor. It was introduced from among a number of letters and papers stated to be either in the handwriting of, or to have been transmitted by, General Wilkinson's deceased agent, Philip Nolan, and it was stated to be an account current signed by an agent of Governor Miro, and rendered to Philip Nolan, and by him transmitted to General Wilkinson; it was handed round among the members of the court, and when it came to me to be filed I ran my eye hastily over it. I cannot recollect, with any precision, either the date, the items, the gross amount, or the balance; nor can I recollect the name or quality of the Spanish agent by whom it was signed and rendered; it was either enclosed in a letter from Philip Nolan to General Wilkinson, or tied up with letters, or other papers of Nolan, so that the account, together with a certain number of those papers, formed one exhibit. I do not find, upon recurrence to my list, that the account is specifically mentioned in it; but I feel morally certain in my own mind, that it was comprised in one of two exhibits mentioned and described in that list as follows: "No. 6. Papers of Nolan." "No. 9. Nolan's letters." And further this deponent saith not.

W. JONES, Jr.

WASHINGTON COUNTY, ss.

On this 1st day of May, 1810, before the subscriber, a justice of the peace for said county, appeared Walter Jones, jr., and made oath in due form, that the foregoing facts, as stated, are true to the best of his knowledge.

DANL. RAPINE.

D. W. C.

Personally appeared before me, Daniel Rapine, Daniel W. Coxe, of the city of Philadelphia, merchant, who, being duly sworn according to law, doth declare and say, that the following documents and papers:

No. 2. A letter from James Wilkinson to Daniel Clarke, dated 27th October, 1807;

No. 3. An agreement between James Wilkinson and Daniel Clarke, dated 7th August, 1788, in Philip Nolan's handwriting;

No. 4. James Wilkinson's accountable receipt to Daniel Clarke, dated September 18, 1789;

No. 5. An affidavit of John Ballinger, dated January 12, 1789;

No. 6. A letter from Evan Jones to Daniel Clarke, dated February 16, 1809;

No. 7. An affidavit of F. Langlois, dated the 29th December, 1808, containing two original letters to himself from the Baron de Carondelet, dated 28th January and 28th June, 1795;

No. 8. An affidavit from Dominique Bouligny, dated January 16, 1809;

No. 9. An affidavit of Thomas Power, dated March 18, 1809;

No. 11. An affidavit of William Miller, dated March 11, 1809;

No. 13. James Wilkinson's letter to Colonel John Adair, dated August 7, 1795;

No. 14. Thomas Portell's certified copy, in his own handwriting, of the Baron Carondelet's instructions to him, dated January 20, 1796, with translation thereof, from the Spanish;

No. 15. Thomas Power's letter to Don Thomas Portell, in Spanish, in the handwriting of Power, dated June 27, 1796, with a translation thereof;

No. 16. Thomas Portell's letter to Thomas Power, in Spanish, in the handwriting of Portell, dated the 27th of June, 1796, with a translation thereof;

No. 17. Thomas Power's affidavit, dated March 18, 1809;

No. 20. Thomas Power's draught, in his own handwriting, of his letter, dated 27th June, 1796, in the French language, to the Baron de Carondelet, with a translation thereof;

No. 21. Thomas Power's draught of his letter in English, in his own handwriting, and dated 27th June, 1796, to Governor Gayoso;

No. 22. Thomas Power's draught of his letter, in French, in his own handwriting, and dated 3d January, 1797, to the Baron de Carondelet, with a translation thereof;

No. 23. Thomas Power's draught of his letter in English, dated January 3, 1797, to Governor Gayoso. Accompanying these last four numbers, and Nos. 40 and 43, is Thomas Power's affidavit, dated March 18, 1809, in relation thereto;

No. 25. James M. Bradford's affidavit, dated March 17, 1809;

No. 27. James Wilkinson's account current (in Philip Nolan's handwriting) with Clarke & Rees, dated August 8, 1788;

No. 28. James Wilkinson's account current with Clark & Rees, dated May 1, 1789. N.B. This is contained in account book, page 30;

No. 29. Philip Nolan's account of sales of tobacco, in his own handwriting, dated September 21, 1790;

No. 30. James Wilkinson's letter to Clark & Rees, dated May 20, 1790;

No. 31. James Wilkinson's letter to Clarke & Rees, dated June 20, 1790;

No. 32. Wilkinson & Duun's account current with Clarke & Rees, dated August 39, 1789, and September 5, 1789, with James Wilkinson's order and Philip Nolan's receipt for balance;

No. 33. Philip Nolan's declaration, dated September 10, 1790;

No. 34. Thomas Power's affidavit, dated March 18, 1809;

No. 35. Secret instructions from James Wilkinson to Thomas Power, in P. Nolan's handwriting.

No. 36. Thomas Power's letter, in Spanish, dated May 9, 1797, in his own handwriting, to the Baron de Carondelet, with translation;

No. 37. Baron de Carondelet's letter, in Spanish, to Thomas Power, dated May 28, 1797, with translation thereof;

No. 38. Baron de Carondelet's letter to Thomas

Indemnity for Prizes restored by Denmark.

Power, in French, dated May 26, 1797, with postscript of May 28, and translation;

No. 40. Thomas Power's draught of his letter, in French, in his own handwriting, to Baron de Carondelet, dated June 4, 1797, with translation thereof;

No. 42. James Wilkinson's letter to Thomas Power, dated September 5, 1797;

No. 43. Thomas Power's draught of his letter, in his own handwriting, in Spanish, to Governor Gayoso, dated December 5, 1797, with a translation thereof;

No. 44. Baron de Carondelet's letter, in French, to Thomas Power, dated April 23, 1797, with translation thereof;

No. 70. James Wilkinson's letter to Thomas Power, dated Greenville, May 25, 1796;

No. 71. A letter in James Wilkinson's handwriting, though without his signature, to Daniel Clarke;

X. A letter from James Wilkinson to Daniel Clarke, dated June 9, 1805, introducing Colonel Burr;

No. 78. James Wilkinson's letter to General John Adair, dated May 28, 1805, alluding to Colonel Burr;

G. Y. A certified copy of a letter from James Wilkinson to Governor Gayoso, in the handwriting of Gayoso, and dated September 22, 1796;

A. A letter from Joseph Collins to Daniel Clarke, dated March 10, 1809; have been delivered by this deponent to the Committee of the House of Representatives of the United States, appointed to inquire into the conduct of General James Wilkinson, by a resolution of the 4th of April, instant, and that the said papers are genuine, to the best of his knowledge and belief, and in the handwriting of the persons therein respectively designated. D. W. COXE.

WASHINGTON COUNTY,

DISTRICT OF COLUMBIA, ss: }

On this 30th April, 1810, before the subscriber, a justice of the peace for said county, appeared Daniel William Cox, and made oath, in due form, that the facts stated above are true, to the best of his knowledge. D. RAPINE.

INDEMNITY FOR PRIZES.

[Communicated to the House, February 5, 1810.]

Mr. JOHNSON, from the Committee of Claims, to whom was referred the petition of Peter Landais, made the following report:

That it appears from the memorial and documents that the Alliance, a frigate of the United States, was commanded by the memorialist in the late Revolutionary war, and, in concert with other armed vessels of the United States, on a cruise in the north of Europe in the year 1779, captured three British vessels, and sent them as prizes into Bergen, in Norway: that, on the arrival of these prizes at Bergen, where they were consigned to the French Consul, they were seized

by order of the King of Denmark, and restored to the original British proprietors, on the ground that as Denmark did not acknowledge the independence of the United States, the captures were arbitrarily deemed illegal. The petitioner claims of the United States his proportion of the prize money.

This conduct on the part of Denmark was most certainly in violation of her neutral character, and an unwarrantable interposition in the war between the United States and Great Britain. The justice or injustice of the war was not a subject of decision which belonged to a neutral Power. No preference should have been given to either party in the war. There should have been an equality of friendship, or a conduct equally abstaining from injury. So far from observing this conduct in the transaction, Denmark departed from this line of impartiality, by a positive act and exercise of power, in divesting those who were in the service of the United States of an inchoate right to property, by giving it back to British subjects who had, at least, lost the possession of it. At the period of restoring these prizes the United States had declared their independence, and that independence had been acknowledged by some other nations. But, in another point of view, if Denmark considered the struggle with Great Britain as nothing more nor less than a civil war, still the restoration of the prizes to the other party in the war would still be unauthorized by those rules which are binding in reason and by the laws of nations upon neutral Powers. This last position is corroborated by the opinion of the Secretary of State, now the President of the United States, in his report on this subject; and, consequently, in every rational view of the subject, the claim of damages upon Denmark, for the restoration of said prizes, remains obligatory. The committee, upon the most deliberate examination of this case, are without doubts that the United States are not bound, in equity or justice, or by the laws of nations, to pay to the petitioner any portion of the said prizes, which might have been the share of the petitioner if his inchoate right had not been defeated by the restitution of the prizes. But the practice of the United States, during the Revolution and since, has been in opposition to such claims. The citizens of the United States have a right to expect protection from their Government; but in no situation have the United States ever considered themselves bound to make pecuniary compensation to those of her citizens who have suffered loss by the encroachments of foreign nations. But the United States have sacred and important duties to perform to herself and her citizens in this respect: not in making pecuniary compensation herself, but in maintaining the honor of the nation, enforcing obedience to her neutral rights, and in procuring indemnity from such aggressing Power, so far as may be practicable and consistent with the means and independence of the United States. But this conduct of the United States must be voluntary on the part of the Government. The Government alone

Indemnity for Prizes restored by Denmark.

is the judge what should be done in any individual or in a general complaint; and your committee have confidence that the Government will pursue that course which is most honorable, equitable, and useful, having a just regard to individuals as persons, and the whole community as a body politic; and, upon this occasion, the United States have not been negligent in making use of reasonable exertions, and furnishing rational means of procuring from Denmark damages for the restitution of the prizes aforesaid to the original British owners. A concise view of the proceedings on this subject will best prove this position. As soon as the Danish Government, by the solicitation of the British Minister, gave orders to restore the three prizes captured by the Alliance, information of it was given to Dr. Benjamin Franklin, then in France, who immediately communicated this intelligence to the Congress of the United States, and also sent a memorial to the King of Denmark, protesting against the restitution, and demanding the order to be rescinded, and the vessels to be delivered to the French Consul, from whose care they had been taken, and demanding compensation to the amount of fifty thousand pounds sterling, at which these prizes were then estimated, provided they were not in a situation to be restored to the captors: that, in consequence of the letter of Dr. Franklin to Congress, a resolution was adopted the 25th of October, 1787, instructing our Minister at Versailles to renew the claim upon Denmark for the prizes given up to Great Britain during the war, and demanding a pecuniary compensation equivalent to the value of them; investing the said Minister with power finally to settle said claim, and, if necessary, to appoint Chevalier John Paul Jones, or any other agent to the Court of Denmark, with such powers and instructions as he might deem most conducive to a successful issue. In consequence of which power Paul Jones was appointed their agent by Mr. Jefferson, late President of the United States, and then Minister at Paris; that this agent went to Copenhagen, and in March, 1788, repeated the claim of compensation. The Danish Government answered this agent, that the affair would be referred to the Baron de Blome, the Danish Minister at Paris, to be negotiated between him and Mr. Jefferson. The petitioner's, and the other vessels cruising in concert, were under the command of Chevalier Paul Jones in the first voyage, if not during the whole cruise, and Chevalier Jones and the commanders of the squadron entered into a written agreement for the distribution of the prize money which might accrue upon the success of the cruise; which agreement the petitioner has attempted to invalidate, and upon which the committee do not feel themselves called upon to decide: that after the last application was made by Paul Jones to the Danish Court he entered the Russian service, and no measures have ever been taken since: so that reasonable exertions were made at those times to obtain compensation for those prizes; but all was fruitless.

The Danish Court has never denied the right of the captors to indemnity. When Dr. Franklin wrote to Count Bernstorff, he referred him to Baron de Blome, the Danish Minister in France; and upon the application of Commodore Paul Jones, promise of negotiation was made, and referred to the same Minister. It is the opinion of your committee that the Government never should relinquish said claim, in any transactions or negotiations between the two Governments; and they hope, upon a convenient opportunity, to renew this claim of damages, when the Court of Denmark would be disposed to settle agreeably to justice, from a love of that neutral character by which Denmark has acquired so much glory, and in order, likewise, to emulate the conduct of the United States towards the subjects of that Kingdom. But your committee cannot think that the petitioner has any legal claim upon this Government; but the Government alone is the judge, and the rightful judge, what measures should be pursued in relation to the subject, and all others of the same tenor. The committee feel no inclination to deny that the memorialist fulfilled the orders of his superiors; nor do they feel it their duty to examine that point, nor whether the agreement entered into by the petitioner and the commanders of the squadron sailing in concert would be binding or nugatory, as those two positions can have no bearing upon the present inquiry, which is, whether the United States are liable to the captors for the three prizes restored by Denmark as stated.

The right to make war belongs to the sovereign power of a nation, which rests with the people of the United States, by their representatives; and individuals cannot take any steps themselves without authority. Persons, therefore, fitting out privateers to cruise against the enemies of that country of which they are members, acquire the property of whatever captures they may make as a compensation for their services, disbursements, and the risks they run. They acquire the right from the commission which issues to them from the power controlling the operations of the war; and these captures are made under certain regulations or laws adopted by the power granting the commissions. Sometimes a part, sometimes the whole capture, belongs to the captor; this depends upon rules, or the contract by which the distribution is regulated. And though the love of justice and hatred of oppression may enter into the motives or inducement for this service of making captures, the prospect of riches constitutes part of the inducement: so that the nature of the service proves satisfactory that the United States never intended to be responsible for the captures lost in such a way, or in any other way where the United States could not control, by reasonable precaution, the event which produced the loss; and, in fact, where the United States are not culpable, they are not liable.

The nature of this service in the American Revolution was known to all engaged in it, and more especially the perils of cruising in the very

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neighborhood of England, with her formidable navy, the place where these prizes were taken. In this situation, to give the squadron as mentioned all the benefit arising from the importance of the United States, and to prevent those engaged in her service from being considered as pirates, they not only acted under commissions, but orders from Dr. Franklin, who designated the neutral ports where it was most probable the captures would be safe until they could be sent with more safety to the United States, or some ally: and for the benefit of this squadron and the American cause, he gave written orders, by which the squadron was to be governed; and in one of his letters of instruction to Chevalier John Paul Jones, he says: "The prizes you make send to Dunkirk, Ostend, or Bergen, in Norway, according to your proximity to either of these ports." Thus giving his own weight of character, and the influence of the United States, for the benefit of those employed in the public service of this country, and from his information directing the captors to places of the most security.

The observations made above will apply with equal if not greater force to the case of the memorialist, who was in the service of the United States, commanding a frigate, with the advantages of capture allowed to others commanding privateers.

It is also well established by the law of nations, previous to the Revolution, and which law was, during the Revolution, acknowledged and acted under by the United States, that the property in goods captured cannot be transferred, so as to divest the right of the original owner, unless by a sentence of condemnation by a court of competent jurisdiction; and the courts of the United States, or the courts of an ally, alone would have been competent; so that the captors never had a vested right. The capture gave an inchoate right, which would have been perfected by condemnation of a competent tribunal; and the letters of Dr. Franklin show that the prizes were intended for the United States, and much danger was apprehended. In *Johnson's New York Reports*, vol. ii, p. 471; *Brown's Civil and Admiralty Law*, p. 251 to 260; *Azuni*, vol. ii, p. 242; this doctrine above is established: all which prove the hazards of the captors, and by one of those unforeseen events did defeat their right before its completion.

Upon inquiry from the Department of State, it appears that the United States have no funds of any kind in possession belonging to Denmark, and no part of this claim can be distinguished in that way. The committee hope that the claim will not be disregarded in any adjustment of the claims or other complaints which may be the subject of negotiation between the two countries of Denmark and the United States.

This view taken of the subject has been predicated upon the ground that the commanders of the squadron, of which the memorialist was one, had been set on foot by the United States alone. But there is a different view of the subject, from which it would result that, if there was any lia-

bility in this case, France would be the responsible nation, or at least equally bound with the United States.

It appears to your committee that, previous to the cruise of the squadron with which the Alliance was associated, the Court of France had some naval expedition in view against England; and as Paul Jones, Esq. had signalized himself in a sea engagement in taking the Drake, application was made to Dr. Franklin for his services to command in the enterprize, which was granted. The project was formed by the Court of France. Paul Jones was furnished with some of the King's ships, the officers of which were to have temporary American commissions, and for some reasons of the Ministry of France it was wished that the expedition might be considered as American, and that Dr. Franklin should give the instructions in his name; but he never paid or received, in behalf of the United States, any money, directly, or indirectly, on account of this enterprize, and the whole outfit for the squadron was committed to Monsieur de Charmount, an agent of the French Government; and, after several changes as to the destination of the enterprize, the final intention, under which the cruise set sail, was to intercept and attack the Baltic fleet. At the time of this enterprize, France being engaged in war with England, and the ally of the United States, the Alliance frigate was under orders to carry Mr. John Adams back to America from Europe; and the Minister of the French Marine, by a written letter, requested of Dr. Franklin that he would lend the Alliance to strengthen the little squadron aforesaid, offering a passage to Mr Adams in one of the King's ships. Dr. Franklin consented to the request, with the double view to oblige the Minister of the Marine, and to obtain some English prisoners to exchange for the Americans in captivity in England. That the ships with which the Alliance was consorted were, 1st, the *Bonhomme Richard*, bought and fitted by the King of France for Captain Jones: 2d, the *Pallas* frigate; 3d, the *Vengeance*, a corvette; 4th, the *Cerf*, a cutter, all belonging to the King; and two privateers sailed with the squadron, but were not considered as part of the armament; that Dr. Franklin made no agreement, nor any other person for him, with the commanders of said expedition, respecting the shares they were to draw severally of the prizes which might be taken during the said cruise; that he lent the vessel (Alliance) at the Minister's request; and that the captain, before they sailed, entered into an agreement to divide the prizes according to the rules of the United States, as they acted under American commissions and colors. It appears that, although Dr. Franklin expected the prisoners taken, by lending the Alliance, to exchange with Great Britain, he was disappointed on account of difficulties which occurred in Holland, and they were exchanged for French prisoners; that the disbursements for the frigate Alliance were paid by the King of France, while under the command of Captain Jones, including the period in which the

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prizes were taken, viz: 1st, on her refit in Holland, and, 2d, on her refit after her return to L'Orient; and though the petitioner considered himself not under the command of Commodore Jones after her return to France, (the first time after he had made the captures which were sent to Bergen,) still Dr. Franklin considered him in that service. For it is certain that the memorialists acted under the orders originally given to Paul Jones, which copy was given him because it was uncertain whether the *Bonhomme Richard*, commanded by Paul Jones, could cruise as soon as the *Alliance*, and whether the agreement entered into by the commanders was binding, respecting the prizes taken while Jones was absent, which is not the province or duty of the committee to determine. It was after these prizes had been taken and carried into Bergen, that the *Alliance* again joined the squadron of Captain Jones, a few days after, off Flamborough Head, about the 22d of September, 1779, when they engaged together and took the two English men of war, the *Serapis* and *Countess of Scarborough*. Your committee are of opinion that the *Alliance* joined in the enterprise set on foot, projected, and patronised by the Court of France against the common enemy of the United States and France, and that the commanders undertook the enterprise, knowing all the circumstances enumerated, and entered into an agreement with each other as to the share of the profit; and although the committee cannot see that France or the United States should be liable to make good the damages to the memorialist, still, if any be liable, it would certainly be the French Government, if not in whole, at least in equal parts. Vide Franklin's Works, vol. 5. p. 80.

Upon this view of the subject, the committee submit the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

GENERAL ARTHUR ST. CLAIR.

[Communicated to the House, February 23, 1810.]

Mr. JOHNSON, from the Committee of Claims, to whom was referred the petition of Arthur St. Clair, made the following report:

That the petitioner claims the reimbursement of the sum of eighteen hundred dollars, advanced by him in the year 1776, to Major W. Butler, of 2d P. B., to begin in the northern department the re-enlistment of the troops then in service, in order to form a part of the permanent army of the United States, conformably to the resolutions of Congress; which claim is founded upon a receipt in the following words and figures, viz:

"TICONDEROGA, October, 26, 1776.

"Received of General St. Clair eighteen hundred dollars, for the recruiting service.

"WM. BUTLER, Major 2d P. B."

Which paper is hereunto annexed; under which receipt, and on the same paper, the following memoranda are made: "Gave Captain Wilson

one hundred and fifty-four dollars for the same purpose; October 30, Captain Moore three hundred and sixty-two dollars; November 3, Mr. Armstrong seven dollars and ten cents." The committee are satisfied that the petitioner advanced the sum mentioned, for the object and in the manner set forth by the memorialist; that it was applied to the re-enlistment of the permanent army by Major Butler; that the United States have received the benefit of the sum advanced; that neither the United States nor Major Butler have ever paid any part of the said sum to General St. Clair. Of the authenticity of Butler's receipt there can be little doubt. Besides the internal evidence of the original paper, and being on a piece of paper containing private memoranda, written with the same pen and ink apparently, the certificate of Joseph Howel, jun., assistant commissioner of army accounts, that the claim had been laid before him 6th November, 1787; and also, that before the death of Major Butler, or as early as 1793, the receipt was put in possession of Mr. Ross, an attorney, to bring suit against said Butler. Howel's certificate, No. 1. Ross's certificate, No. 2. In a transaction of this kind, the committee would not be satisfied of the justice of this claim, upon a proof that the money had been advanced for the United States; but would require presumptive satisfactory evidence that the reimbursement never had been made of this particular sum.

This evidence is furnished by the circumstance of this case, and the documents of the memorial. Although the memorialist has had various settlements with the Government of the United States, except the final settlement of his accounts for revolutionary services with Pierce in 1787, he never could, with propriety, have made the claim, as they were accounts arising for disbursement of moneys for specified purposes, and for services and claims arising from considerations long since the American Revolution, and with which other claims could not have been blended. In the settlement of his army accounts with Pierce, he might have laid in his claim for the \$1,800. No positive proofs, independent of the positive declarations of the memorialist, exist of the exhibition of the claim for settlement at that time. But the certificate of Joseph Howel, the successor of Pierce, establishes two facts, which remove all doubts on this part of the subject: that William Butler, to whom the \$1,800 had been advanced, had not settled his public accounts, which was the reason why Pierce could not admit this claim as alleged by St. Clair; and secondly, that the \$1,800 did not appear upon the books of the office of army accounts in favor of the memorialist; and the want of a settlement of accounts with Butler seemed a reason why Howel did not take upon himself to settle said claim the 6th of November, 1787; from these two facts, it seems certain that the petitioner, in 1797, made claim to this \$1,800, which had not been allowed, and that all subsequent settlements and transactions between him and the United States were of a totally distinct nature, and could not include

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such a claim as this. Considering the circumstances of this case, the committee do not think the lapse of time a presumptive evidence that the claim has been paid, having a particular regard to the conduct of General St. Clair; he has not been negligent in making claim either against the United States or William Butler. The presumption is strong that this claim was presented to Pierce for settlement in 1787. It is certain it was presented to Howel the 6th November, 1787; that before the death of Major Butler, he gave the receipt to Mr. Ross, upon which to bring a suit, about the year 1793, and, after Butler's death, applied to his executors; that he presented his petition to reimburse him this money in the year 1803; that previous to this time, Ross had returned the receipt of Butler, upon a belief that an action would not lie against his executors for money advanced for public purposes; and that in 1809, the executrix of William Butler refused to give the petitioner his books, containing his account with the petitioner; that the memorialist never could have presented his claim to any of the officers of the Government for liquidation after the 23d of July, 1788; (see vol. 12, journals of old Congress, page 77;) and the statute never was suspended as to this class of claims; the suspension only applied to a prior resolution, respecting claims for military services which were barred after August, 1786; (see vol. 10, journals, page 255;) and the act suspending the statute of limitations, passed the 27th March, 1793, only as to claims for personal services; (see Laws, vol. 2, pages 31, 32.) A paper purporting to be a statement of accounts between General St. Clair and Major Butler in the handwriting of the petitioner; the petitioner has satisfactorily explained how that paper came to be in his own handwriting; but that paper, if evidence in the case, would establish important facts in favor of General St. Clair. It appears, by this document, that the money was advanced by General St. Clair, and that money applied to the benefit of the United States and balanced by money expended by Major Butler in the recruiting service. So far from these facts absolving the Government from the payment of this claim, they make the claim more obligatory upon the United States, as the money was advanced at a most perilous and interesting moment, and gives the claim the most meritorious marks; nor can there be any presumption that this money had been previously paid to General St. Clair by the Paymaster General or any of the officers or agents of the Government, but the presumption is very strong the other way, that it was not advanced to him by the agents of the United States: first, because he had then received the commission of General, and did not stand in such a relation to Major Butler, as to suppose with him the deposit of money was made for the use of Major Butler: second, the time and place of making the advance in the North, proves, with other facts, that Major Butler had finished the recruiting service in the formation of his company while captain and in Pennsylvania, and that the recruiting the men to enlist as a perma-

nent part of the army was the recruiting alluded to. (See General Washington's letter on this subject, referred to by the memorialist.) It is believed by the committee, that the money advanced to Major Butler to recruit his company in Pennsylvania was furnished by the United States, and given to the petitioner while colonel in the United States' army, and in the State of Pennsylvania; and the account between Colonel St. Clair and Captain Butler, as to money for recruiting men, in the first instance, ceased with the completion of that employment, which ended after the army left Philadelphia for the North; and on August 12th, 1776, Colonel St. Clair was commissioned Brigadier General, and the money advanced to Major Butler was on October 26th; and it is presumed, unless the contrary appears, that General St. Clair's elevation in rank changed his relations as it respected the men commanded by Major Butler, and that he had nothing to do with the regiment of which Butler was a part, only as it composed a part of his brigade. Independent of these considerations, the existence of the receipt of Major Butler, in the possession of the petitioner, furnishes strong and violent presumption that the money mentioned in it has never been paid, either by the Government or Butler; if by the Government, the foundation of the claim would have been required, and as the receipt was the basis of that claim, it must have been repaid; if Butler had ever satisfied this claim, he certainly would have taken in his receipt. It would be a presumption, not warranted by law or reason, to suppose that the petitioner has ever been divested of this paper, and that he has, in any way whatever, come to the improper possession of the receipt again. The fact must be taken as found, that he holds the receipt *bona fide*, without its having ever been discharged. The committee need not say more, to show the impropriety of blending this account of \$1,800, with other accounts, between the petitioner and William Butler, or with the United States; the item of \$1,800, advanced at Ticonderoga, has alone occupied the attention of the committee, and they think it would be improper to blend it with other distinct inquiries, not embraced by the claim. They are satisfied that the petitioner advanced the money; that it was applied to the benefit of the United States; that he has used reasonable diligence to have said claim settled; and that the said sum has never been paid by the United States or Major Butler to the petitioner; and if it appears upon the Treasury books, or books of the War Office, that General St. Clair is indebted to the United States, it cannot invalidate his claim; in this case it could only go as an offset for so much. But this inquiry is not before the committee; there is a remedy for the case of public debtors. This claim being barred by the statute, the committee, as in other cases, feel bound to recommend the following resolution:

Resolved, That the prayer of the petitioner ought not to be granted.

[NOTE.—The papers referred to in this report are not now to be found.]

The Embargo—Instructions to Collectors.

EMBARGO.

[Communicated to the House, May 25, 1809.]

TREASURY DEPARTMENT,
May 23, 1809.

SIR: The act laying an embargo, passed on the 22d of December, 1807, has, in conformity with the expressions used in the twelfth section of the non-intercourse act, been considered as still in force, so far as related to foreign vessels. Such vessels have, therefore, been permitted to depart only in ballast, or with the cargo on board, when notified of the embargo. That construction of the law necessarily flowed from the expressions alluded to, which limit the repeal of so much of the embargo acts as related to the departure of vessels, to vessels owned by citizens of the United States—expressions which would have been altogether inoperative, had a different construction been adopted. Nor was the Executive vested with any discretion to make a distinction in favor of vessels belonging to those nations with which commercial intercourse was permitted by the act, however consistent with the presumed intention of the Legislature such distinction might have been.

Without dwelling on the inconveniences which have resulted, it is only necessary to add that the expressions used in the eleventh section of the non-intercourse act, by virtue of which the commercial intercourse with Great Britain will again be permitted after the 10th day of June, are such as certainly to repeal every restriction laid by the embargo laws on British vessels. It follows that, after that day, those vessels will, in the ports of the United States, be permitted to take on board cargoes, and to depart with the same for any permitted foreign port, while foreign vessels, belonging to the other nations with which commercial intercourse is permitted, will still be forbidden to depart with such cargoes on board. As it is presumable that a bill intended to correct that defect would be altogether unobjectionable, and as there are now in the ports of the United States many foreign vessels belonging to friendly nations, which are detained only on that account, permit me respectfully to submit the propriety of acting immediately on the subject, and without waiting for a decision on the more complex modifications of the non-intercourse act which the late change in our foreign relations may render necessary.

I have the honor to be, &c.

ALBERT GALLATIN.

Hon. CHAIRMAN, *Committee of Commerce*, &c.

INSTRUCTIONS TO COLLECTORS.

[Communicated to the House, Jan. 20, 1810.]

TREASURY DEPARTMENT,
January 20, 1810.

SIR: I have the honor, in obedience to the resolution of the House of Representatives of the

8th instant, to transmit copies of the only general instructions to the collectors of customs, to be found in the records of this department, relative to refusing clearances to any private armed vessel of the United States.

By the first, bearing date April 8, 1797, it is directed "that the sailing of armed vessels, not *bona fide* destined to the East Indies, be restrained until otherwise ordained by Congress." Although no instructions of a prior date to that effect, appear to have been given by the Treasury Department, it is understood that this regulation only confirmed what had been the previous general practice. And it has ever since been considered as being in force, except when superseded for a time by the temporary instructions of March 21, 1798, herewith transmitted, and during the continuance of the acts of Congress of June 25, 1798, and March 3, 1805; the first of which expired on the 3d of May, 1802, and the last on the 21st of April, 1806.

I have the honor to be, &c.

ALBERT GALLATIN.

The Hon. SPEAKER of the House, &c.

TREASURY DEPARTMENT,
April 8, 1797.

SIR: The depredations, to which the commerce of the United States is at present exposed, have given rise to a question, which, being of general concern, is therefore made the subject of a circular communication.

The question is, whether it be lawful to arm the merchant vessels of the United States, for their protection and defence, while engaged in regular commerce?

It is answered, that no doubt is entertained, that defence, by means of military force, against mere pirates and sea-rovers, is lawful; the arming of vessels, *bona fide* engaged in trade to the East Indies, is, therefore, on account of the danger from pirates, to be permitted as heretofore; but, as the arming of vessels destined for European or West India commerce raises a presumption, that it is done with hostile intentions against some one of the belligerent nations, and may cover collusive practices, inconsistent with the act of Congress of June, 1794, unless guarded by provisions more effectual than have been hitherto established; it is directed that the sailing of armed vessels, not *bona fide* destined to the East Indies, be restrained until otherwise ordained by Congress.

Information has been received that some vessels are arming by strangers, for the purpose of capturing the vessels of the United States. The utmost vigilance, on the part of the collectors, to prevent the progress of this evil, is enjoined. Where there is reasonable ground to believe that vessels are equipped for the purpose of being employed against the commerce of this country, they are to be arrested, and the circumstances stated to this department. I am, &c.

OLIVER WOLCOTT.

To the COLLECTOR of the Customs of —.

*Instructions to Collectors.*TREASURY DEPARTMENT,
March 21, 1798.

SIR: It has been determined by the President of the United States, that, under present circumstances, it has become necessary to modify the instructions issued from this department, on the 8th of April, 1797, in such manner as no longer to restrain vessels of the United States from sailing in an armed condition, when destined to be employed in a regular and lawful commerce.

But though you are to consider the general prohibition as no longer remaining in force, it is the express command of the President, that you seize and detain all vessels respecting which there may exist reasonable ground of suspicion, that they are intended to be employed contrary to law, and particularly to the act of Congress passed on the 5th day of June, 1794, entitled "An act in addition to the act for the punishment of certain crimes against the United States," or the act passed the 14th day of June, 1797, entitled "An act to prevent citizens of the United States from privateering against nations in amity with, or against citizens of the United States."

You will also consider it to be your duty to prevent evasions of the act passed on the 14th day of June, 1797, entitled "An act prohibiting for a limited time the exportation of arms and ammunition, and for encouraging the importation thereof;" by confining the quantities of the said articles which may be returned as constituting the equipment of any vessel within reasonable limits.

A confident reliance is entertained that all your proceedings under these instructions, will be marked with decision and impartiality.

I am, &c.

OLIVER WOLCOTT.

To the COLLECTOR of the Customs of —.

[Communicated to the Senate, Feb. 23, 1810.]

To the Senate of the United States:

I transmit to the Senate a report of the Secretary of the Treasury, complying with their resolution of the 16th instant.

JAMES MADISON.

FEBRUARY 22, 1810.

TREASURY DEPARTMENT,
February 22, 1810.

In obedience to the resolution of the Senate of the 16th instant, the Secretary of the Treasury respectfully reports to the President of the United States:

That exports to, and imports from, the ports of France have not been, nor are now, permitted, in the act "to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes."

That exports to, and imports from, the ports of Great Britain were, in conformity with the proclamation of the President of the 19th day of April, 1809, announcing that the British Orders in Council would be withdrawn on the 10th day of June ensuing, permitted from the said 10th day of June and until the 9th day of August ensuing.

That the President having, by his proclamation of the 9th day of August, 1809, announced that the British Orders in Council were not withdrawn on the 10th day of June preceding, and, consequently, that the trade renewable on the event of the said orders being withdrawn, was to be considered as under the operation of the several acts by which such trade was suspended, information thereof was immediately transmitted to the several collectors, by a circular, dated, also, "August 9th, 1809," a copy of which is herewith transmitted, and also of a post-script directed to the collectors on the Lakes.

That the collectors were informed, by that circular, (which has already been laid by the President before Congress, at the opening of the present session,) that the act above-mentioned was, in every respect, applicable to Great Britain and her dependencies; but, that the President had also directed a suspension of seizures and prosecutions in certain cases, arising from acts which would, in conformity with his proclamation of the 19th day of April preceding, have been considered as lawful; and that, in such cases, the vessels and cargoes might be admitted to entry.

That no other instructions but those contained in the said circular, have been given on that subject to the collectors; and that, if any collector has knowingly admitted to an entry goods the growth and manufacture of Great Britain or France, in any other case but those enumerated in the circular above-mentioned, such act is unknown to this department, and would be considered as a high breach of duty.

All which is respectfully submitted,

ALBERT GALLATIN.

The PRESIDENT of the United States.

CIRCULAR.

TREASURY DEPARTMENT,
August 9, 1809.

SIR: You will herewith receive the copy of a proclamation of the President of the United States, announcing that certain British Orders in Council were not withdrawn on the 10th day of June last, and, consequently, that the trade, renewable on the event of the said orders being withdrawn, is to be considered as under the operation of the several acts by which such trade was suspended.

The act "to amend and continue in force certain parts of the act, entitled 'An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes,' passed on the 28th day of June, is, therefore, in every re-

Naturalized Seamen Registered.

spect, applicable to Great Britain and her dependencies, as well as to France and her dependencies; anything in my circular of 20th June last, to the contrary, notwithstanding.

It results that, from the receipt of this, you must, in every instance, except as hereinafter expressed, refuse clearances for British ports, requiring, as usual, bonds from all vessels bound to permitted ports, in the manner provided by the third section of the act above-mentioned. But, as many British vessels have, or may, come into the ports of the United States, in consequence of the President's proclamation of the 19th day of April last, he directs that you will permit such British vessels to depart, without giving bond, either in ballast or with the cargo on board, when notified of the enclosed proclamation: it being, however, understood that this indulgence shall not be extended to any other vessels than such as are now in the ports of the United States, or such as may hereafter arrive, having sailed from a foreign port before information of the enclosed proclamation shall have been received at such port.

The President also directs, that, until a decision from Congress on that unexpected point shall have been obtained, or, until otherwise instructed, seizures or prosecutions for supposed contraventions of either the above-mentioned act, or of the non-intercourse act of 1st March last, arising from acts which would, in conformity with his proclamation of the 19th of April last, have been considered as lawful, shall be suspended in the following cases, viz:

1. All vessels which have entered a British port, since the 10th of June last, or which may hereafter enter such port, having sailed for the same before information of the enclosed proclamation had been received at the port of departure, so far as relates to any forfeiture or penalty which may accrue or have accrued by reason of their having thus entered a British port.

2. All vessels which have arrived, either from British ports or with British merchandise, in the United States, subsequent to the 10th of June last; and also all vessels which may hereafter thus arrive, having sailed for the United States before information of the enclosed proclamation shall have been received at the port of departure, so far as relates to any forfeiture or penalty accruing from having arrived or arriving in the United States from British ports, or with British merchandise.

3. All vessels, now owned by citizens of the United States, and sailing under the American flag, which, being in a foreign port at the time when the enclosed proclamation will be made known at such port, shall, with all due diligence, depart therefrom, and return without delay to the United States, so far as relates to any forfeiture or penalty accruing from their arriving in the United States from British ports or with British merchandise.

In the above-mentioned cases of vessels arriving in the United States, and which are, for the

present, exempted from seizure, the vessels and cargoes may be admitted to entry.

The time when the enclosed proclamation shall have been known at the ports of departure, respectively, must be ascertained by the best means in your power, and you may refer doubtful cases to this department.

Application may, of course, still be made, in all cases, for an absolute remission of the forfeiture and penalties, in the manner provided for by law; the instruction herein given to abstain from prosecutions and seizures in the abovementioned cases, being only intended to prevent the expenses and inconvenience to which the parties concerned would otherwise be exposed.

I am, very respectfully, &c.

ALBERT GALLATIN.

The COLLECTOR of —

Postscript to the Collectors on the Lakes.—You will observe that exportation to the British territories is not forbidden, by land, nor in any other manner than ships or vessels, as will appear by the third section of the act of 28th of June last, and according to the spirit of the instructions of the President, all merchandise which had left Montreal, or any other port in Canada, for the United States, before the enclosed proclamation was known at such port, is admissible to entry, and will not, for the present, be liable to seizure or subject the parties concerned to prosecution.

A. G.

NATURALIZED SEAMEN REGISTERED.

[Communicated to the House, March 10, 1810.]

DEPARTMENT OF STATE,
March 5, 1810.

SIR: I have had the honor to receive your letter of the 26th ultimo, requesting "a statement of the whole number of persons born in foreign countries, and legally admitted citizens of the United States, by naturalization, and who have been registered as American seamen, and returned as such to the Department of State, according to the list transmitted by the collectors of the customs, in pursuance of the law relative to the relief and protection of American seamen."

In reply to this letter, I beg leave to refer to the report made by the Secretary of State to the House of Representatives on the 2d of February, 1809, in which it will be seen, that the whole number of naturalized citizens then returned to this department, as registered seamen, was 449: and to add, that it appears from the returns for the year 1809, that 128 naturalized citizens were, during that year, registered as American seamen, and so returned to this department.

I have the honor to be, &c.

R. SMITH.

HON. THOMAS NEWTON.

Chairman, Committee of Commerce, &c.

Repairing Frigates, &c.—Navy Hospitals.

REPAIRING FRIGATES, &c.

[Communicated to the House, June 12, 1809.]

NAVY DEPARTMENT, June 9, 1809.

SIR: I have received your letter of yesterday's date, and, in reply, have the honor to state:

1st. That the cost of repairing each of the frigates now lying at the navy yard, Washington, cannot be estimated with any degree of precision, until each frigate shall have been thoroughly examined in her hull, masts, spars, rigging, sails, water casks, &c., and the precise state of each particular ascertained. I some time since directed such examination to be made, and reported to me, but this has as yet only partially been done; and being apprehensive that some days may elapse before I shall have it in my power to afford satisfactory information upon this subject, I have supposed that, in the meantime, it would be agreeable to the committee to receive information upon the other points of your letter, and therefore proceed to state:

2dly. That the difference between keeping each of the public armed vessels in service, for six months, from this time, and laying them up in ordinary immediately, circumstanced as they now are, their crews being generally in debt for advances of money and clothes made to them, and their supplies of provisions, and, in a great measure, all their other supplies being now actually on board, would be from three to four months' pay of their respective crews; that is—

For a 44-gun frigate, about	-	-	-	\$17,000
36 do do	-	-	-	15,000
32 do do	-	-	-	12,000
16-gun brig	-	-	-	7,000
14-gun schooner	-	-	-	5,000

In replying to your third query, requiring "a comparative statement of the building and the annual expense of maintaining a gun on board a frigate and a gunboat," it is necessary to suppose a particular case. I will take the frigate *President*, mounting fifty-six guns; forty-two pound carronades, and twenty-four pound long cannon.

This frigate cost two hundred and twenty thousand nine hundred and ten dollars and eight cents, say, two hundred and twenty-one thousand dollars. A gunboat, carrying two guns, will cost twelve thousand dollars. A gunboat, carrying one gun, will cost about nine thousand dollars. The frigate will require four hundred and twenty men to man her, and can be maintained, in actual service, at an annual expense less than one hundred and twenty thousand dollars, including the pay of officers and seamen, provisions, repairs, medicine, contingencies, and every other expense of every description. A gunboat, mounting one or two guns, will require forty-five men to man her, and cannot be maintained in actual service, at an annual expense less than eleven thousand seven hundred dollars, including every expense. It hence results that the building of nineteen gunboats, each carrying two guns, and carrying thirty-eight guns in the whole, would cost more than the building of a frigate mounting

fifty-six guns; that the number of men required for a frigate mounting fifty-six guns, would not be sufficient to man ten gunboats carrying, in the one case, twenty guns, in the other case, ten guns; that, to fight fifty-six guns, on board of twenty-eight gunboats, would require twelve hundred and sixty men; and to fight them, dispersed in fifty-six gunboats, would require two thousand five hundred and twenty men; and that two thousand five hundred and twenty men employed on board of frigates, mounting each fifty-six guns, and each requiring four hundred and twenty men, can fight three hundred and thirty-six guns, consisting of forty-two pound carronades, and twenty-four pound long cannon.

With respect to the expense per gun, it appears that fifty-six guns, mounted on board of a frigate, can be maintained at an annual expense of less than one hundred and twenty thousand dollars; that the annual expense per gun, on board of a gunboat carrying two guns, will be five thousand eight hundred and fifty; and on board of a gunboat carrying one gun, eleven thousand seven hundred per annum; that the difference between the annual expense of fighting fifty-six guns on board of a frigate, and twenty-eight gunboats, carrying fifty-six guns, is two hundred and seven thousand six hundred dollars; and that the difference in the annual expense of fighting fifty-six guns on board of a frigate, and fifty-six gunboats carrying each one gun, is five hundred and thirty-five thousand two hundred dollars.

The annual expense of keeping the gunboats (other than those now in service, and those yet on the stocks) in ordinary, would be about sixty-four thousand dollars.

As to the saving already made by laying up these boats in ordinary, it is impossible at this time precisely to ascertain it, as the department is not informed of the day on which each boat was laid up. I can only, at this time, form a conjecture as to the amount, which is supposed to be equal to one month's pay of the crews discharged; that is, about eighteen thousand dollars.

I am, with great respect, &c.

PAUL HAMILTON.

RICHARD CUTTS, Esq., *Chairman, &c.*

NAVY HOSPITALS.

[Communicated to the House, February 26, 1810.]

Mr. BASSETT, from the Committee on the Naval Establishment, made the following report:

That their attention had been called by the Secretary to navy hospitals. To his memoranda, herewith presented, they beg to refer. It remains for your committee to state their conviction of the propriety of the Secretary's suggestions, and to congratulate the House that the opportunity is offered to ameliorate greatly the situation of a meritorious portion of citizens, without recurring to the public treasury. Of all classes of society

Navy Hospitals.

seamen require most the paternal foresight of Government. Habit, which tyrannizes over man in every situation, makes the sailor ever regardless of to-morrow; like the infant, he requires a guardian, or old age brings with it miserable poverty. On this principle, our Government, as well as others, have, from seamen's wages, raised a fund for marine hospitals, with guardian care setting apart a portion of the earnings of health for a support in sickness and decrepitude. The object is to give this principle a more operative direction, and not to deviate from it in the slightest degree. The sailor alone shall be able to exult in the comfortable asylum prepared for his aged and enfeebled brother, whilst the farmer, himself pressed by the hard hand of poverty, may view with complacency the comfort of others, which cost not an additional stroke of his hoe or his axe. The committee recommend the following resolutions:

Resolved, That the twenty cents per month deducted by law, from the pay of the officers and seamen of the Navy, together with such sums as may be due or become due to deserters, shall be made a fund for building and supporting navy hospitals, to be expended under the direction of the Secretary of the Navy and others, as Commissioners of said fund.

Resolved, That all fines imposed on officers, seamen, and marines, shall accrue in aid of the hospital fund, and that one ration shall be allowed the hospital for every person admitted, to be deducted from their accounts on settlements, and when any one shall be received into the hospital, who shall be entitled to a pension, such pension shall be paid to the hospital during his continuance therein.

Resolved, That the unexpended balance in the hands of the Treasurer, of the twenty cents heretofore deducted from the pay of the officers and seamen of the Navy, shall accrue to the navy hospital fund.

NAVY DEPARTMENT, Feb. 22, 1810.

SIR: Availing myself of the latitude allowed me by the honorable committee of which you are the chairman, I submit for consideration the following observations and notes relative to pensions and hospitals:

1st. As it respects the pensions of seamen and marines.

By the eighth section of the act for the better government of the Navy, it is provided that the pensions shall in no case exceed one half the monthly pay.

The power of regulating the pay of seamen and marines is vested in the President of the United States; that of seamen has been granted according to circumstances, depending principally on the wages given in the merchant service. Hence, in the years 1798, 1799, 1800, and 1801, their pay was \$17 per month. In the years 1802, and 1803, it was \$14; afterwards \$10, and is now \$12 per month. The pay of the marine was

early fixed at \$6 per month, and has undergone no change.

Soldiers in the land service may receive a pension of \$5 per month.

Hence, it is obvious that, under present laws, great inequality exists with respect to pensions. The same descriptions may at one time receive \$8 50 per month, at another \$7, at another \$6, at another \$5 per month.

The most valuable seamen, however crippled in the public service, could not now receive a pension exceeding \$6 per month; and in the year 1800, or 1801, an inferior seaman, sustaining less disability, might have received \$8 50 per month. Cases of this kind, indeed, are now to be found upon the pension roll. It appears, too, that the pension provided for the marine is two-fifths less than that provided for the soldier in the land service. This distinction between the marine and the soldier is certainly not founded in any principle of justice. Its existence, it is presumed, has escaped the attention of Congress, otherwise it would not have been suffered so long to the prejudice of the marine.

A strong dissuasive to the continuance of this distinction arises out of the fact that the pension of the marine is paid out of a fund which his enterprise contributed to raise, whereas, to pay the pension of the soldier, Congress have to make annual appropriations of money out of the Treasury.

To remove the existing pernicious inequality in the pensions of seamen of the same class, and sustaining similar disabilities, and to place the marine on an equality in this respect with the soldier, the eighth section of the act of 23d of April, 1800, ought to be repealed, so far as respects the pensions of seamen and marines, and it ought to be declared by law that the pension of the able seaman, should not exceed — dollars per month; that of the ordinary seaman, or boy, — dollars; and that of a non-commissioned officer, musician, or private, in the marine corps, \$5 per month. Under such a law, the compensation for wounds sustained in the public service might be graduated by the measure of disability incurred; and as the law ought to provide for the highest disability that may be sustained, it is conceived that the blank for able seamen might be filled with \$10, and that for ordinary seamen and boys with \$6, without transcending the bounds of justice, or falling short of the dictates of humanity. Surely \$10 per month would not be an extravagant compensation to a poor crippled sailor, deprived of the use of his limbs in his country's service, and who, when not able to pursue his profession, is emphatically like a fish out of water, and is as utterly incapable of making any kind of provision for his support, as the disabled soldier, who had never seen salt water, would be on board of ship.

2dly. As it respects hospitals for the relief of sick and disabled seamen.

As a fund for the relief of sick and disabled seamen, the Secretary of the Navy is required to deduct from the pay of each officer, seaman, and

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marine, belonging to the Navy, twenty cents per month, and to pay the same quarter-annually into the Treasury, to be applied under the direction of the President of the United States. The amount thus deducted and paid into the Treasury is \$55,649 29, and there is a considerable sum deducted, but not yet paid into the Treasury; and yet no navy officer has, and but very few of the navy seamen have, received any benefit from it.

By law the like deduction of twenty cents per month is made from the pay of each seaman in the merchant service, and the whole fund thus raised is applicable indiscriminately to the relief of officers, seamen, and marines, of the Navy, and the seamen of the country generally. The inconveniences and embarrassments which arise from the placing of persons engaged under military law in the public service, in hospitals where no such law exists, have escaped the attention of Congress. In the few cases which have occurred of navy seamen being sent to such hospitals, experience has proved that the commanding officers of the ships from which they were sent, could never get returns made to them, and that, on an average, three out of five have deserted as soon as they got in a convalescent state. Hence the propriety of having *distinct establishments* for the relief of sick officers, seamen, and marines, of the Navy. Let the fund drawn from the seamen in the merchant service be appropriated for the relief of seamen in that service; and let the fund deducted from the pay of the officers, &c. of the Navy, be appropriated exclusively for them. If such a law existed, and the supplementary provisions hereafter suggested were authorized by law, there might be, in a very short time, six capacious hospitals established, in which all the sick of every description of the Navy might be comfortably nursed; all the wives of seamen killed in action might be supported; all the children supported and educated, and young men just entering the service as midshipmen might acquire the invaluable knowledge of the theory of navigation, lunar observations, and naval tactics, without costing the public a single cent. If doubts should be entertained as to the capacity of the means to accomplish these important and highly interesting objects, they may easily be removed by actual demonstration.

In addition to the twenty cents per month, let funds be raised from such of the following sources as may be thought most advisable, or, to complete the goodly work at once, let the whole of them be added to the fund.

1st. Let Congress declare, by law, that all the balances due to deserters from the service should be forfeited, and thus applied.

2d. That the balances due to seamen dying in the service, should be invested in funds, and the interest thus applied, until such balances should be called for by either the wives, children, or known legal representatives of the deceased.

3d. Let the disabled person entitled to a pension make his election between going into a hospital for life, or receiving the pension allowed him by law. If he preferred going into a hospi-

tal for life, which many would do, then his pension to be applied towards the support of the hospital

4th. Let the balance at this time, or the unapplied amount of the money raised by deducting twenty cents per month from the pay of the officers, &c. of the Navy, be thus applied.

5th. Let Congress add to the twenty cents which, by the act of 2d March, 1799, the Secretary of the Navy is required to deduct from the pay of the officers, seamen, and marines, of the Navy; instead of twenty cents, fifty might be deducted. This of itself would produce one hundred and fifty per cent. upon the amount now deducted. The officers, seamen, and marines would, it is confidently believed, cheerfully consent to a deduction of one dollar per month from their pay, if they knew that the amount was to be applied exclusively to their benefit.

6th. Let the rations of the seamen or marine, and one of the rations of each officer, while in the hospital, be deducted and thus applied.*

7th. Let all mulets of pay by sentence of courts martial, and all stoppages of grog for minor offences, be thus applied.

8th. Let ten or fifteen per cent. on slop clothing furnished the seamen, be thus applied. At this time, the sailor on board ship is furnished with slop clothing from twenty-five to thirty-three and a third per cent. less than he could get it at out of a slop shop, so that if ten per cent. on the present price were added, the seamen would still get the slop clothing from fifteen to twenty-three and a third per cent. less than he could buy it for out of a slop shop. Hence, he could not reasonably complain at the making of the proposed addition to the price, especially when he would reflect that the amount thus to be produced was intended exclusively for his benefit and that of his brother seamen.

In addition to these provisions, it will be recollected that many of the officers necessary for the hospitals might be selected from among those disabled in the service, who would gladly serve without any addition to their pensions, excepting merely their board, the cost of which, to the establishment, would be very inconsiderable. There are now on the roll of pensioners, one captain of the Navy, one lieutenant, one surgeon, one sur-

*The ration would of itself be sufficient to defray the expenses of every description of provisions, wines, liquors, &c. required for the sick in hospitals, under proper regulations. The experiment has been fairly tried in a small hospital at New York, under the care of Doctor Samuel R. Marshall, a surgeon in the Navy of the United States. The following is the result of that experiment:

For three months, one ration per day for each man sick in the hospital, at twenty cents, amounted to	- \$628 20
The expense of every description of provisions, &c. including pot herbs, soap, and candles, was	301 57½

Leaving a balance in favor of hospital, of \$326 62½

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geon's mate, and a number of boatswains, gunners, sailmakers, sergeants of marines, cooks, &c.

Further, it is presumed that in or near the navy yards would be the most suitable places for the erection of hospitals. In that case, the commandants of the yards might be governors ex-officio of the hospitals, without any additional pay whatever. With them the Secretary of the Navy would hold his correspondence upon all subjects in relation to the hospitals.

The wives of seamen, killed in the service, would make nurses and attendants on the sick; do all the necessary sewing, washing, &c., and their children might, with the pensioners and convalescents, work the gardens.

The persons having the immediate charge of the hospitals ought to be acquainted with navigation, &c. and have the qualifications of teachers; so that the children of seamen, killed in the service, might, when not at work in the gardens, be taught reading, writing, and ciphering; and young men, just entering the service as midshipmen, might be sent to the hospitals to be taught navigation, &c.

If deemed expedient, eight or ten dollars per month might be deducted from the pay of midshipmen, while studying navigation in the hospitals, and the amount might be applied towards paying the teacher, or if more than sufficient for that, towards defraying the general expenses of the hospitals. This, indeed, would be learning them this valuable knowledge, at less expense than they could possibly acquire it in any other way. To me it appears very clear, that the effects of such institutions, under proper regulations, would be happy indeed. The wretched sailor, covered with wounds received in the service of his country, might be saved the debasing employment of beggary; the woman widowed, the child orphaned, in the gallant achievements of the husband and father, might be rescued from wretchedness, probably disgrace. A body of men devoted from gratitude to the service of their country would here be raised up; the benefits or education would be extended; a competition to be admitted into the public service would be excited; and the brave would be encouraged and stimulated, without costing the public one additional cent. Respectfully submitted by

PAUL HAMILTON.

Hon. BURWELL BASSETT,
Chairman Naval Committee.

QUARTERMASTER'S DEPARTMENT.

[Communicated to the Senate, March 12, 1810.]

WAR DEPARTMENT, Jan. 1. 1810.

SIR: The inconveniences and embarrassments to the service, together with the neglect and loss of property, arising from the irregular and unprecedented manner in which the Quartermaster's Department is conducted, render it my duty to suggest the propriety of some further legal provision on the subject. The defects of the

present system originate in the laws. By the law fixing the Military Peace Establishment, provision is made for the appointment of three military agents, and as many assistant military agents, not exceeding one to each military post, as the President shall deem expedient. The law authorizing an additional military force, provides for two brigade and eight regimental quartermasters. The military agents and assistant military agents are appointed by the President. The brigade quartermasters by the brigadiers, and the regimental quartermasters by the colonels of regiments.

The result of this organization is, that the assistant military agents, who ought to account for, and make returns to, the military agents, of all property delivered to them, are not held by a proper responsibility, the military agents having no power or influence in their appointment, nor authority to call them to account for mal-practices or neglect of duty. The brigade and regimental quartermasters are as little under their control.

It will also be perceived that no provision is made for the appointment of an officer whose duty it should be to have charge of, and be responsible for the property appertaining to that department, to regulate and superintend the distribution of all supplies, and to whom all subordinate officers should be accountable.

In want of such an officer, the Secretary of War has been obliged to perform the duties of Quartermaster General. Under the Military Peace Establishment, those duties were laborious. Since raising the additional military force, they have necessarily increased, until it is suggested by experience that, if they were compatible with other duties required of him, the Secretary of War cannot continue to discharge them, either satisfactorily to himself, or with justice to the public.

It is therefore respectfully suggested, that the President be authorized by law to appoint a Quartermaster General, with rank in the Army not exceeding the rank of —, with pay and emoluments not exceeding those of —.

An assistant quartermaster general, to be taken from the line of captains, whose compensation shall not exceed one half his monthly pay and emoluments.

As many deputy quartermasters general, not exceeding four, as the service may require.

If taken from the line, their compensation not to exceed one half their monthly pay and emoluments; if not of the line, not to exceed the present compensation of the military agents.

As many assistant deputy quartermasters, not exceeding one to each military post, as the service may require, to be taken from the line, and allowed eight dollars per month, (as provided by law for the present assistant military agents.)

Under this arrangement the deputy quartermasters general would perform the duties at present performed by the military agents: the assistant deputy quartermasters, those performed by the assistant military agents. Their compensa-

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tion being the same, the additional expense to be incurred will consist principally in the pay and emoluments of the Quartermaster General, with the incidental expenses of his office, and in one additional deputy quartermaster general, if the service should require his appointment.

In time of peace, the proposed system being less complicated, and possessing a more regular and rigid accountability, would be far less expensive in its consequences: at the same time that it would instruct the officers in a branch of service acknowledged by military men to be of the first importance.

To meet a state of war without such an establishment, which has been justly denominated the right hand of an army, would be to disregard the practice and experience of our own and every other nation, and expose to hazard and defeat every military operation.

With respectful consideration, your obedient servant,

W. EUSTIS.

Hon W. B. GILES, *Chairman*.

COMMITTEE CHAMBER, Jan. 13, 1810.

SIR: In obedience to the instructions of the committee of the Senate, to whom was referred the Message of the President of the United States of the 3d instant, I now have the honor of requesting you to submit a plan to the committee for establishing a general staff, or quartermaster's department, for the Army of the United States. I am also instructed to intimate to you, sir, that it would be agreeable to the committee to have the plan as much in detail as your convenience will permit.

I have it also in charge from the committee, to ask of you a statement of military munitions, which may be required by the present exigencies of the country; together with an estimate of the sum of money which may be necessary for providing the same.

Be pleased, sir, to accept assurances of my high consideration, &c.

WM. B. GILES, *Chairman*.

Hon. WILLIAM EUSTIS, *Sec'y of War*.

WASHINGTON, Jan. 15, 1810.

SIR: Your favor of the 1st instant, respecting the establishment of the quartermaster's department for the Army of the United States, addressed to me, as chairman of the committee of the Senate, &c., was not put into my hands until late last evening.

It is probable, if it had been sooner received, a part of my letter of the 13th instant, addressed to you in relation to that subject, might have been deemed unnecessary by the committee.

Be pleased, sir, to accept, my respectful compliments, &c.

WM. B. GILES.

The Hon. WILLIAM EUSTIS.

WAR DEPARTMENT, Jan. 15, 1810.

SIR: I take the liberty of submitting for perusal and consideration, the enclosed extracts from

the letters of Mr. William Linnard, (a faithful and indefatigable military agent,) which letters were accompanied with the names of several assistant military agents to whom he had made disbursements, and from whom he had not been able to procure satisfactory statements and settlements.

They are among the evidences daily occurring which evince the necessity of a reformation in the quartermaster's department.

With respectful consideration, your obedient servant,

W. EUSTIS.

Hon. W. B. GILES, *Chairman*, &c.

Extract of a letter, from William Linnard, Military Agent, dated

PHILADELPHIA, Sept. 15th, 1809.

"With respect to instructing the assistant agents to forward requisitions and other evidence, to show on what authority expenditures have been made, I beg leave to observe, that, whenever I have had occasion to write to a newly appointed agent, I have never failed to inform him such documents were indispensably necessary to accompany their vouchers; and although I have been very particular in those instructions, little or no regard has been paid to them; and, in fact, in some instances, where the commanding officer was assistant agent, they have ridiculed the idea as extremely absurd to make requisitions on themselves. I do believe it to be impracticable to obtain those documents in every instance, unless the assistant agents were more stationary, and the principals clothed with more authority than they possess. I shall, however, not lose sight of the object, but continue to use my endeavors to obtain them; and, if I fail, it ought not to add to my duties, already too much multiplied."

Extract of a letter, from William Linnard, Military Agent, dated

PHILADELPHIA, Dec. 7th, 1809.

"On receipt of your instructions relative to the accounts, I wrote circular letters to all the assistant agents, and in order to enforce your injunctions, and that I might not be misunderstood, I enclosed copies of your instructions to me. To press the necessity of a particular attention to the vouchers, I introduced the following quotation from your letter: 'That, in all their disbursements, the authority of the commanding officer should accompany the voucher, particularly stating the object of the expenditure.' Some of the assistant agents and officers have strangely construed those expressions to require the authority the commanding officer had to make the requisition; and instead of writing to me for an explanation, they have delayed their accounts until the commanding officer could write to the Secretary of War for his authority, or an explanation."

The Quartermaster's Department.

WASHINGTON CITY, Nov. 29th, 1809.

SIR: On the eve of leaving the Army, (unless a prospect of active service should forbid it,) permit me to address you on the important necessity of the quartermaster's department being restored, if it was only on the ground of economy: for, to that department belongs the care of all stores belonging to the Army. By the derangement of that department, were strict inquiry made, it would be found that more than one hundred thousand dollars have been lost, in the course of a few years, by the abolition of the quartermaster's department, and the introduction of a system of military agency. Instances may be found of characters being employed as agents, perfectly ignorant of military affairs, and the great duties imposed on them, and at times unsupplied with the means necessary of performance.

The Quartermaster General of an army is an officer of great importance, and should be of high rank, active, persevering, and experienced, perfectly acquainted with the geographical situation and advantages of the country in which an army is to act, so as always to draw his supplies at the least possible injury and expense. He is primarily charged with all the articles belonging to his department; on him requisitions are to be made by the division quartermasters for such stores as may be required for their divisions; which stores are to be issued on the returns of the brigade quartermasters, and so to the regimental quartermasters, who are to make and deliver returns of all stores on hands and delivered once in three months, to the brigade quartermasters, who will consolidate and transmit them to the division quartermasters, who, in like manner, are to consolidate and transmit them to the quartermaster general, who will transmit them to the Secretary of War. Pursuing this principle it can always be ascertained in what division, brigade or regiment, there may be delinquency.

You will please excuse the liberty I have taken in addressing you on a subject of great importance to the Army, either on a peace or war establishment. The importance of this subject will perhaps be more fully impressed by an application to military gentlemen who have experienced the inadequacy of the present system to the general welfare of our country.

Accept the assurances of my perfect esteem.

A. PARKER, *Col. 5th Infantry.*

WAR DEPARTMENT, Jan. 20, 1810.

SIR: In answer to your letter of the 13th instant, requesting "a statement of military munitions which may be required by the present exigencies of the country, with an estimate of the sums which may be necessary for providing the same," I must ask the indulgence of the honorable committee in stating to them, that, as the sums already appropriated by law, for completing the fortifications for the defence of the ports and harbors, which had been commenced or projected, were deemed sufficient for the object, no

further appropriation on account of fortifications was proposed in the estimate of the present year. But, in case of war, additional works will be required. Their situation, nature, and extent, depending on the emergencies which may require them, cannot be ascertained. In many instances, they will probably be of a temporary nature, and constructed principally by the troops.

The island of Rhode Island, from the peculiarity of its local situation, bordering on the ocean, accessible at all seasons of the year, affording a safe and commodious harbor, fertile in itself, commanding other islands, well stocked with provisions, and as a central station from which to harass the trade of the continent, offers to an enemy advantages not combined in any other port, and requires additional means of defence.

To meet the expenditure required at this and other places, it is therefore respectfully suggested that the sum of one hundred and fifty thousand dollars be appropriated on account of fortifications.

For supplying the several works with additional cannon, ammunition, and implements; for mounting on travelling carriages, with proper equipments, a train of heavy ordnance, for the defence of such points or places as are not protected by batteries; to mount and equip a train of field artillery; to provide arsenals for the deposit of small arms and artillery, with laboratories for preparing ammunition; and for procuring additional supplies of sulphur and saltpetre and other articles in the ordnance department, the sum of five hundred thousand dollars will be required.

The purchase of knapsacks, cartridge boxes, belts, and other equipments for infantry and cavalry, of tents and other articles in the quartermaster's department, with suitable store-houses for their preservation, may be estimated at four hundred and fifty thousand dollars.

The munitions embraced in the foregoing estimates are considered as preparatory, requiring time to provide them, and admitting of such extension and additions as exigencies may require.

For future supplies of cannon, with their implements, of small arms and accoutrements, and of clothing, if suitable encouragement was given, great reliance may be placed on the public and private armories, and on the foundries and manufactories already in operation, the crude materials being the growth and produce of our own country.

Should the public exigencies render it necessary to call into actual service an additional military force, provision should be made in season for furnishing each non-commissioned officer and private with clothing for one year.

I have the honor to be, &c. W. EUSTIS.

The Hon. W. B. GILES, *Chairman.*

WAR DEPARTMENT, Feb. 4, 1810.

SIR: The precarious state of foreign commerce, together with other considerations equally important, renders it extremely desirable that pro-

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vision should be made for clothing the Army of the United States from our own manufactures.

On the contracts for provisions made annually by this Department, and on other contracts requiring a large capital, it has been customary to make advances of money in order to enable the contractors to fulfil their engagements.

An extension of this practice to supplies of clothing would enable the purveyor to publish proposals and make his contracts in the same manner as the provision contracts are made. From the encouragement which would thus be given to the several manufactories, a spirit of competition would be excited, improvements would be made in the works and in the several fabrics, and there can be no doubt that ample supplies would be offered, on terms equally advantageous with those attending imported cloths, while the necessity of having recourse to importations in future would be finally removed.

In order to insure success to this desirable object, it will be necessary that the appropriation for clothing should be made in the year preceding that in which the clothing is to be delivered.

I have thought the subject of sufficient importance to be communicated to the honorable committee of which you are chairman,

And am, with respectful consideration, &c.

W. EUSTIS.

Hon. W. B. GILES, *Chairman.*

THE MILITIA.

[Communicated to the House, March 29, 1810.]

Mr. CLAY, from the committee to whom was referred so much of the Message of the President as relates to the organization of the militia of the United States, reported "That the committee, in considering the several subjects to them referred, are of opinion, that it would be improper, at this time, to innovate on the present system of organization of the militia of the United States."

WASHINGTON, *December 18, 1809.*

SIR: The organization of the militia of the United States has long been deemed a subject of primary importance by those who have been conversant with public affairs. Various systems have been proposed and rejected, and, indeed, it is not an easy matter to make any regulation which shall be adapted to the laws and the habits of the different States. Being a member of the committee to whom was referred that part of the President's Message which relates to the organization of the militia of the United States, I take the liberty to inquire of you, what are the prominent defects of the present system. The act of Congress under which the militia are formed, was passed on the 8th of May, 1792, and must be perfectly familiar to you. By conversing with gentlemen from different parts of the United States, I find that all the Governors have not given that law the same construction: for instance, in the formation of corps of horse artil-

lery, light infantry, and grenadiers, in some States, the Executive authority has supposed that the act of Congress aforesaid authorized the formation only of troops and companies; while in other States, regiments and even brigades are formed, and the officers have been duly commissioned.

A question hence arises, whether the orders of such general and field officers would be obeyed by officers from those States where no such system had obtained, if they should be called into service together. What has been the practice in this respect in your State? How are your dragoon and artillery corps formed; whether into troops and companies only, or into regiments and brigades, and if into the latter, under the sanction of what law?

Would it not be advisable, for the sake of uniformity, either to authorize by law the formation of regiments, especially of dragoons, or else to reduce the regiments now formed and attach one troop to each regiment or brigade of infantry?

In some States it has become a practice to obtain commissions, and resign them immediately, only for the sake of being exempt from militia duty. What inconvenience would result from limiting the shortest period of service to a commissioned officer, (extraordinary cases excepted) and if he should resign before the expiration of that period, to be liable to be called into the ranks? This is now the case in some States.

What are the objections to embodying a corps, to be composed of all such able-bodied men as have reached the age of forty-five, and under sixty, and who are exempt from military duty, only by age, under the present law, to be called the alarm list, and never liable to march out of the State, nor to perform military duty or parade; but to be obliged once a year to appear on parade armed, and, in case of invasion, or insurrection, to march with the militia?

It has been a favorite theme with the Southern members, to class the militia so as that the burden of active duty, if needed, should fall on that portion of our citizens who are between twenty-one and twenty-five years of age. The Northern members have pretty uniformly opposed such an innovation upon our system. What objections to such a measure have occurred to your mind?

Would it be advisable for the General Government to attempt to arm the militia? and if so, in what mode? whether by giving them arms, or to apportion them to the States, to be preserved in magazines against time of need?

Is there anything, in the present mode of discipline, which needs the interference of the General Government? Would it be advisable to call out any portion of the militia yearly, to take the field? and if so, on what principles should such a system be adopted?

These, sir, are some of the prominent points on which, perhaps, some amendments may be made to our present militia system. Other improvements may undoubtedly have occurred to your mind. Any reflections which you may

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please to bestow upon this subject, and any amendment which you may propose to our present system, if communicated to me, shall be submitted to the committee who now have this subject under consideration.

This letter will be enclosed to Governor Treadwell, that he may make any remarks, or communicate such instructions to you, as he may deem necessary.

I am, sir, very respectfully, &c.

BENJ. TALLMADGE.

General E. HUNTINGTON.

NORWICH, 5th January, 1810.

DEAR SIR: In answering your letter of the 18th ultimo, which came to hand on the 29th, I find a task which, on opening and reading, I did not anticipate; but if, in the course of it, I shall give you one new idea worth preserving, I shall be more than satisfied.

The subject-matter has frequently presented itself to my mind as attended with serious difficulty, as well as of great national importance; but, owing to the diversity of habits which are to be included, and probably in many respects, subdued, by a militia system pervading the United States, (without any knowledge of the respective State systems to which the men have been accustomed,) I feel myself inadequate to form a plan which would be acceptable. Indeed I frankly own I have never seen any system proposed, in which I had confidence, nor do I believe any system, commensurate to the object, will ever be adopted by the Government, or, if adopted, be submitted to by the sovereign people. A man possessing so little confidence in militia to oppose regular troops, except for the moment, and on the spur of the occasion, and who absolutely knows, so fully as I do, the enormous waste and expense attending their every movement, is not capable of affording much aid in the completion of a militia system. Too much has already been done with the militia, if they are not to be a substitute for standing troops, and too little will always be done if they are made a substitute. The song which has been incessantly sung, ever since the Constitution was adopted, that the militia are the sure bulwark of our nation, the safe guardians of our liberties, is now in the mouth of every one, and he who doubts the truth of it is deemed a political infidel; yet, with all the odium attached, I acknowledge myself no convert to such a doctrine. Let the Government proceed to regulate the militia to the utmost length their masters, the sovereign people, will bear—it will be just so far as to make them food for powder in the day of battle; and death, or what is worse, loss of honor, must be expected by every officer of spirit connected with them. General Knox's system (a copy of which he was pleased to send me) is the only system which I have seen, that can be considered as possessing any efficiency.

That system was rejected by the Government as being too expensive; it was approaching the mark, but, in my opinion, short, and not altogether

correct in detail. Less energy than what that system contained is a downright fraud on the public mind. You observe that all the Governors have not given the act of Congress of 1792 the same construction in the formation of cavalry, &c. I reply that the act of 1792 was laid before the Legislature of this State, and a law passed to carry the same into effect, but some things to be effected, which the Legislature could not conveniently do, were submitted to his Excellency Governor Huntington, the then chief magistrate, to execute: among those referred, was the arrangement of the cavalry, which then consisted, if I recollect, of twenty-nine companies or troops, unequally divided into five or six regiments, one regiment containing seven companies. His Excellency the Governor, knowing that some of the troops had been raised under the immediate patronage of particular officers, and whose limits were not recorded in the office of the Secretary of State, though the officers had been commissioned, and the companies recognised by the Government, deemed it expedient to call to his counsel the general officers throughout the State; and when met, it was discovered that an uniformity of opinion did not prevail respecting retaining the cavalry in regiments. A majority of the gentlemen, however, considering the privileges which had been granted in raising the companies of cavalry, with the customs and usage of being regimented, brought the corps within the letter and spirit of the 3d section, and of the last clause of the 10th section of the law of 1792, and recommended that the cavalry should be formed into eight regiments, one of which to be attached to each brigade, and that his Excellency the Governor be requested to grant permission to raise three more companies to complete the eight regiments to four troops each. (The above detailed account I believe correct; I give it from recollection, and it is possible that, in some respects, my recollection may not have served me.) His Excellency, in conformity to such advice, did alter and new form the limits of the regiments of cavalry, did raise three more companies, and completed the eight regiments, and assigned them to the respective brigades of infantry. I cannot conceive that any collision can possibly arise respecting rank in any one State, among the cavalry officers; for the commissions issuing from the same source are of equal validity in the eyes of the officers; but it is possible, if the before mentioned exposition of the law is not correct, that collisions may arise when portions of militia from different States are called into the field together. The power of forming artillery companies is, by law, placed under the direction of the Captain General of this State; such companies as were in existence at the time of passing the act of 1792, with such as have been since raised, have been attached to the regiments of infantry from whence they enlisted.

Whether it is advisable to have the cavalry in regiments, or only in companies attached to infantry regiments, or what relative proportion is best, I cannot determine. The number of cav-

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alry which might be employed to advantage in the Southern or Middle States, would, in a great degree, be useless in the New England States. For a sudden irruption into an enemy's country, or in a retreat, cavalry have a decided superiority over infantry, and if you could have them disciplined and instructed in the duties of an artillery, they would become highly useful to operate with the artillery; but, under any general law for the government of the militia, I cannot persuade myself that they could be useful but in small numbers to clear a tract of country before an invading foe.

In an army where you can provide magazines, you can have large bodies of cavalry, but, in case of invasion, infantry, principally, are more to be relied on than large bodies of cavalry—they cannot be supported. I think the officers, commanding in the higher grades in the cavalry, require experience, and that experience which can be obtained only by serving with cavalry. Although you may frequently find an officer in the infantry, who would command a body of cavalry with honor to himself, still I believe that you must have your field officers used to, and familiar with, the cavalry discipline, which is not expected from an infantry officer. In this place, I would suggest, that the enormous expense of cavalry ought to have its influence to lessen its number. I am decidedly of opinion, that one company of cavalry to a brigade of infantry is a large proportion. If the number of cavalry were diminished to one company to a brigade of infantry, you might, with propriety, expect your men better mounted and equipped and, in fact, be more efficient than a larger number. You might require the men to be of a certain size, of a certain age, and hold themselves owners of the horses, which horses should be inspected, accepted, and registered, and not borrowed, on a muster day, as, at present, is very common. The men might be enlisted under an express condition that they should always hold themselves liable to march, completely equipped and mounted, on the earliest notice. You well know that a great proportion of the horses used at present in our cavalry corps are totally unfit for field service.

You mention that, in some States, it is not unfrequent to accept commissions, and then resign, merely accepting the appointment to avoid service. The observation applies to every State, I presume, in a greater or less degree, and must always be expected, where the profession of arms is so little encouraged as in the United States, and where the honor of serving his country is held in so cheap estimation.

The length of time which an officer ought to serve, to entitle him to an honorable discharge, is difficult to ascertain; but I think if an officer was obliged to do duty in the ranks, who should not serve four years in the commission or grade from which he wished a discharge, it would be the means of bringing forward a class of men, better calculated to do the public justice, than permitting so easy an evasion of military duty; perhaps, if above — years of age, and under

— years of age, he might have his election, whether to pay an annual sum to the regimental purse, rather than be subjected to do duty in the ranks, would be desirable. Ought not the act of Congress to define exemptions from military duty, and the States be permitted to add none to that number, except the persons exempted be liable to an annual composition in money, to be paid into the military chest, for supplying the regiment with blank cartridges, colors, drums, fifes, &c., and for any use to which an expense now arises to the regiment.

The experience which this State had of alarm list companies, as they were called, during the Revolutionary war, which were composed of those exempt from military duty in the common militia companies, and, I think, under seventy years of age, has induced me to reject the idea of such men being embodied as soldiers; they may be useful as men, with their families, and some few of them may be employed about an army, but as soldiers they are not worth their rations. The sparsely settled state of our country, even in Connecticut, throws obstacles in the way of classing the militia, which have much weight in my mind; a great part of this State spreads the limits of a military company over an extended district of nearly nine miles in circumference, to obtain sixty-four, liable by law to do military duty, and many of the companies embrace a district of double that extent; which company, if brought into classes, would live so remote from a common centre, that the duties on ordinary trainings would be an unreasonable tax on the men, as a large proportion of those liable to do duty are of that class who neither own horses, nor are able to hire on such occasions. To avoid that inconvenience you must have small companies, and the whole worth of the company would be inadequate to furnish officers and non-commissioned officers. If ever classing of the militia should be thought essential, or a substitute must be found, I should prefer that every battalion should be obliged to have its flank company kept full, and that the flank companies, the artillery companies, and the cavalry, should have some incitements from the public Treasury, to be in complete readiness on any and every emergency, and should be called for in the first instance, and without any previous notice, leaving to the Adjutants General to detail from the militia such a number of field and staff officers as to completely officer them, which detailed field and staff should be considered under requisitions for a certain length of time, and if not called into the field in twelve months, then other officers to be detailed for the same duty and relieve them; and, if called into the field, to be relieved, on returning, after the tour of duty was performed. Such a corps, as abovementioned, would be more efficient than double their numbers, detached in the usual manner; it would take from this State about six thousand men, officers included, which is nearly our proportion of two hundred thousand men from the United States, making the last detail by the Secretary of War our guide. In respect to arming the militia by the General Government, I

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cannot believe it expedient in any point of view. If the public should be willing to place their arms in the hands of the soldiery, they would, under every care which would be taken, be nearly rendered useless in a very short period. If they should be placed under the care of the officers, they would soon be destroyed with rust, without a regular armorer to take care of them; if they should be put into the hands of the men on their responsibility, they would be sold by them in many instances, and loaned, and used for gunning in others. and, I have no doubt might be considered a total loss in five years; besides, if the public were to furnish arms for the militia, the arms now in our country, and many of them very fine pieces, would be totally neglected, which are now kept in some kind of order by the owners, while they are impressed with the necessity of taking care of their property, and that, possibly, they may be called to take the field, and hazard their lives on the goodness of their arms. I should consider a magazine in each State, supplied with field pieces, arms, and ammunition, and all the equipments necessary for a thousand men, and under the care of a suitable man paid for the purpose, more to be relied on than a supply for three thousand, dealt out to the men, or placed under the care of militia officers, at the close of every training day. If our liberties are worth preserving, and we will not pay enlisted troops to preserve them, we must be willing to pay a little out of the common stock, to support a system which is relied on as a substitute. I have no confidence in the mode of detaching the militia, as heretofore practised by our Government; I presume it has been calculated for its effect abroad, but you may rest assured its effects have been confined to ourselves—we have been imposed on—we have relied on the militia; without this detachment we should have considered ourselves neglected, but I firmly believe our country has obtained, by the different detachments, nothing but the expense. You cannot find an European officer, and but few American officers, who hold the militia in much estimation; they do not respect them, only as they hold an enemy in bay for a moment, until other troops may be called in.

It is our parsimony which makes us too highly estimate militia; if the militia were more expensive than enlisted troops, there is not an American but would reprobate the idea. Having remarked on each of the points mentioned in your letter, I shall take the liberty to remark on the act of 1793, the consideration of which gave rise to your letter.

The first section, which respects enrolling the inhabitants, I wish to see altered in such a manner as to embrace all above the age of sixteen and under forty years of age. The experience I had, in the year 1777, of the exertions of our light infantry company, which was composed generally of lads under eighteen, and some under sixteen, satisfied me fully that, for nearly all and every service, the lads at sixteen were as much to be relied on as those above that age. On the approach of action they were always in spirits,

calculating on the honor they should acquire. I had rather risk my reputation on the exertions by the class of young men, from sixteen to twenty, than on all those above that age. The young court danger from motives of honor and love of country combined; the elder class, on the approach of danger, are ruminating on their wives and children; the bodily strength of those of sixteen is equal to all the duties ordinarily required to be performed by militia; they will be more ambitious in their acquiring the use of arms, and laying the foundation for promotion, which those with families, and more advanced in life, hold in much less estimation. In our Northern States, our military days of parade are generally considered holidays, and the class of citizens from sixteen to eighteen are always found about the parade, and their amusements as laborious as the duties of a soldier, and frequently more injurious to their health and morals. By embodying all able bodied, from sixteen to eighteen, will, in this State, I presume, add one-fifth, if not one-third, to the number of militia.

I think the notice of six months to be equipped ought to be given before the person arrives at the age of sixteen, so as to be obliged to do duty at that time; and I humbly conceive, that if the law required no notice to be given by the officer enrolling, it would not be a hardship; for it is universally known by the boys among us when they are to be enrolled for duty. I am not very tenacious of that part of the law which requires the men to furnish themselves and carry their ammunition to the field; if, on an emergency, they could receive ammunition from some common stock, more reliance could be placed on their being properly furnished than in the present mode. I think no exemptions ought to be made from militia duty, but by act of Congress, and that such list of exemptions ought not to embrace so large a class of citizens as at present. By so many exemptions, the militia duty is rendered less popular, and the exemptions are frequently those very characters who would make the best officers. Every man whose public duty will permit him to do military duty, and is under forty years of age, I could wish to see become a citizen soldier, while the defence of our country is entrusted to the militia. If you will consent to embody those citizens from sixteen to eighteen, I firmly believe you may enlarge your companies to one hundred, without extending their limits, and I can see no inconvenience resulting from such an enlargement; it will excite more emulation among the officers. I think brigade majors should uniformly be taken from the line of captains, and should have no additional rank thereby; all other staff officers, for the brigades or regiments, should be taken from the commissioned officers; indeed, I would allow no staff officer, except aides-de-camp and the adjutant and quartermaster general, and their staff and hospital officers, to be taken from those not liable to military duty, and I would restrain the appointment of surgeons and surgeons' mates to regular bred licensed physicians and surgeons, and to

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those above — years of age. It is highly exceptionable, in my view, to have such appointments made from favoritism; I have known some appointments to those important offices, made from boys under eighteen years of age, whom I would not have entrusted to open a vein or extract a tooth. It is worse than murder to employ and depend on such creatures to attend the sick and wounded defenders of their country, when called to the field.

Instead of the uniform, in any instance, to be regulated by the brigadiers, as in the third section, I would have it established by Congress, that, when the militia of the different States are called to perform service together, they may be in uniform.

If the uniform should be established by Congress, to take place at a short future period, I have no doubt the troops would be completely clad in the course of two years, if not in one; and, having one fixed uniform, would be attended with economy. The State and regimental colors, mentioned in the fifth section, I would have provided from the funds of the regiment, into which, as a fund, I would have paid all fines collected for absence on days of muster or review, and the sums paid for exemptions from militia duty before suggested, and all other fines; and I think, whenever a regiment is under arms, the colonel, or commanding officer, should possess power to inflict fines on those who absent themselves, after the muster has commenced, or for improper conduct, to the amount of — dollars. Confinement on such a day is not a pleasant mode to be adopted, with some of those liable to do duty, whose feelings are not alive to such punishment, but would feel the effects of a fine. It should be left optional with the commandant to fine, confine, or both. To the duties of an adjutant general in each State, I would annex the duties of inspector general, and make it his duty personally to inspect the troops, (taking to his aid, while inspecting each brigade, the brigade majors of such brigades respectively.) He ought to examine every article required by law to be part of the equipment, the ability of the horses belonging to the cavalry, and occasionally to exercise the troops, if he deems it expedient and necessary. To this officer, from whom I would require so much duty, I would have annexed a compensation sufficient to call into such service suitable persons to perform the duty. I do not hazard anything, in my opinion, when I say that more can and will be effected by such an officer to make your militia efficient, and be constantly in readiness for service, than from any other cause whatever. No provision is made by the law of 1792 for furnishing field artillery; I ask you whether it is the duty of the State to furnish pieces for their militia when called out of the State? and whose duty it is to furnish horses to drag the artillery, when detached, and to find ammunition, &c.; and whether the respective States would permit their brass pieces to be removed out of the State without, or with, a provision for payment in case of losses? This sub-

ject may be worth consideration, and, if the pieces are damaged, whose duty is it to repair them? I think that, whenever a fine is placed on a man by a military tribunal having cognizance of the crime, it should not be within another tribunal to re-examine and review—many of our officers neglect laying fines, more through fear of a lawsuit than from a willingness to neglect their duty. I would have all fines laid by the company officers reported to the field officers, who should compose a court, to review and judge of the propriety of collection, or remitting, and their judgment should not be reviewed or reversed by any civil court. If a man, by his age, is liable to be enrolled in the first instance, (until he arrives at the age of exemption,) he shall have no other tribunal before whom he may bring his claim, but the board of field officers. If Congress should leave to the respective States to make exemptions, they ought to provide that the person who had been dismissed, or exempted from militia duty in his native State, or place of residence, for services which he had performed as an officer in the line or staff, should not be liable to be enrolled in another State, to which he may remove, provided he produces evidence of his former service and exemptions. A person who may have served as a staff officer in Connecticut, is, by the law of New York, liable to do duty in the ranks, if he moves into that State, which ought not to be the case. Courtesy dictates otherwise.

The manner of appointing officers to take command of the militia in this State, and, perhaps, in many other States, is a subject which I doubt whether the United States would think expedient to meddle with. It is one of those points respecting which advocates may be found for and against regulating the same; but, if it should be thought within the Constitution, and expedient to meddle with the subject, a question will arise, whether the appointment of commissioned and non-commissioned officers to companies may not be placed in better hands than in the hands of the soldiers? But, as it is doubtful in my mind exactly where the Constitution intended to limit the arrangement of the militia, by the word *organize*, and as taking the appointment of the officers and non-commissioned officers from the soldiers, is rather aristocratic and anti-republican, I will not extend my remarks on that subject. Permit me to suggest that the bestowment of rank by brevet to persons not in the line, was a source of inconvenience in the Revolutionary war, and requires great caution and care. Having so largely remarked on the subject of the militia as I have done, you will permit me to observe, that I have not prepared the same for criticism; I have suggested my ideas with freedom to you as a friend, and in compliance with your request; I hope they will not be exposed to much inspection but by my friend. The gentlemen who compose the military committee are unknown to me, but presume they are strangers, and will not highly appreciate my remarks; but to you I submit them. I am, with much esteem, &c.

EBEN. HUNTINGTON.

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TRENTON, December 9, 1809.

SIR: I do not presume I can add to the information of an officer of your experience; it is, however, proper to pay respectful attention to the subject of the letter you did me the honor to write on the 20th (received the 26th) instant. You will, therefore, please accept of the following answers given to your questions relative to the organization of the militia of the United States, as the result of my observations:

FIRST. How are your dragoon and artillery corps formed?

Answer. Previous to the Western expedition, in 1794, the companies of cavalry and artillery, in New Jersey, were attached to the regiments within whose bounds they were formed.

Besides, a brigade of upwards of 1,500 infantry, including two companies of artillery thereto attached, in requisition, 537 cavalry marched as volunteers to Pittsburg. Governor Howell appointed General White, then Adjutant General of New Jersey, to the command of the cavalry, arranged in squadrons under the command of senior captains. The like formation into squadrons was made of the cavalry of Pennsylvania by Governor Mifflin.

Upon the return of the cavalry to New Jersey, application was made to the Legislature, and by the militia law of New Jersey were formed into ten squadrons, making five regiments, and composed one brigade, under the command of a brigadier general, five lieutenant colonels, and ten majors, and have so continued.

The artillery of the State was also formed into two battalions, making one regiment, and officered accordingly.

It was found absolutely necessary to organize such a body of cavalry as five hundred into squadrons and regiments, for subordination and discipline.

It will, therefore, be advisable, as well for the sake of uniformity throughout the United States as for their better military regulation and discipline, to direct the organization of the cavalry in squadrons and regiments. It will be more satisfactory where the cavalry have been thus organized, and prevent offence by their being reduced.

SECOND. What inconvenience would result from limiting the shortest period of service to a commissioned officer?

Answer. It would be an improvement of the militia law of the United States to restrain the resignation of officers until they shall have served seven years, unless in cases of necessity; and, after service of seven years, to be exempted from service in the ranks, nevertheless, to be embodied and mustered with the senior class.

There are no exemptions in New Jersey but those exempted by the militia law of the United States. If an officer resigns, he must return to the ranks or be fined.

THIRD. What are the objections to embodying a corps of between the ages of forty-five and sixty?

Answer. There is no reasonable objection. The militia law of the United States ought to

require the muster of all able-bodied men, between the ages of forty-five and sixty, for review, properly armed, but not to perform military duty, only in case of invasion; nor to be required to march out of the State; to be denominated the Senior Corps, or Senior Class, of militia.

Permit me here to ask, what objections can be made to class minors, between the ages of sixteen and twenty-one?

These youths to put on their frocks, or other regimentals, and be exercised in their several towns, two hours before sunset, on the last Saturday in April, May, June, July, August, and September, under officers above the age of twenty-one.

Great complaints are made in New Jersey by parents and masters having their children and apprentices put in requisition. In many cases, inability to equip, pay fines, &c., which operates as a heavy tax on poor parents, and particularly on mechanics, who have from five to twenty apprentices. I wish to see such a corps well disciplined in their non-age.

There was some objection made to the enrolling of minors when this business of classification, between twenty-one and twenty-six, was before Congress, in 1806. Yet I have never heard of a Constitutional objection against that part of the present militia law of the United States, which directs the enrolment of those who shall, from time to time, arrive at the age of eighteen years. And why not enrol minors of sixteen, as well as those of eighteen, &c. If it is unconstitutional in any of the States to enrol minors, what becomes of those between eighteen and twenty-one? If the objection arises from the Constitution of any of the States, on account of the appointment of the officers to command minors, this can be accommodated in those States by incorporating the minor with the senior class, and let the seniors exclusively elect the officers to command both classes.

There ought to be some amelioration made in favor of those between eighteen and twenty-one as to the equipments, fines, penalties, and particularly on requisitions of the Government.

The Junior Corps, of course, will be those between twenty-one and forty-five, compose the great body and active militia force of the nation; be put in requisition as heretofore, to march out of the State, &c.; nor do I wish to see this corps paralyzed by the classification of men between twenty-one and twenty-five, as has been proposed.

FOURTH. What are your objections against classing the militia, so that the burden of active duty shall fall on men between the ages of twenty-one and twenty-five years?

Answer. Doubts are entertained:

I. Whether this would not infringe the Constitution of the United States, article one, section eighth, page sixteen, "reserving to the States, respectively, the appointment of the officers, and the authority of training the militia," &c. And the article of amendment to the Constitution of the United States, "a well regulated militia be-

Militia of the United States.

ing necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

Although I sincerely wish this reservation and amendment were stricken out of the Constitution of the United States, yet, while they remain, no good, energetic, general, uniform, national system of organization, of the militia of the United States, can be effected. In the Administration of President Adams, it was alleged that the act authorizing the President of the United States to raise a provisional army, passed 22d May, 1798, particularly section 3, and the supplementary act thereto of 22d June, 1798, were infringements of these articles of the Constitution of the United States, inasmuch as it was unconstitutional—

1st. To separate a part of the militia within the State.

2d. Exempted these volunteer corps, while within the State, from the government of the militia laws of the State.

3d. The appointment of the officers by the President.

II. The impolicy of such a corps at this time:

1st. It would derange, at one stroke, the system of organization of the militia of the several States, adopted near eighteen years, under the militia law of the United States.

2d. It would annul, or operate as a repeal of the several militia laws of the United States, passed in conformity to the law of the United States, of 8th May, 1792.

3d. It would require at least a year for the passing of the militia laws, in the several States, conforming to the proposed alteration, and perhaps some of the States would not concur.

4th. The extended residence of men, between twenty-one and twenty-six, in the country, will make their assembling, for exercise, &c., very burdensome and unequal with those in the cities and populous parts of the United States.

5th. The exercise under officers (as it must be) of their own choice, will not improve these corps in military knowledge better than the great body of the militia under the present system.

6th. It will be an insupportable expense to allow this select corps pay and rations.

7th. It will weaken the natural defence of the nation, composed of the great body of the people, by placing entire dependence on this select corps.

8th. In requisitions, substitutes are usually obtained of the poorer classes of men above twenty-six, and, indeed, many only "fit food for powder and ball." If these select corps are established, the nation cannot be purified of these gross materials above twenty-six.

If such corps should be selected, and separated from the militia, to allow them rations would be sufficient, to be exercised by their officers, under the direction and inspection of an inspector in each State, distinguished for military acquirements; to be paid by the United States.

Fifth. Would it be advisable for the Government to arm the militia?

Answer. That article of the Constitution of the United States, respecting the militia, expressly

directs, that Congress shall "provide for arming" the militia. They have not done it. The National Legislature have neglected what they ought have done the moment it was in their power, to have apportioned arms, accoutrements, &c., to the amount, at least, of one-sixth of the number of the enrolled militia; established arsenals for their preservation, with magazines of powder and ball, and camp equipage, &c. But, instead of doing this, Congress, by their militia law of 1792, order every citizen enrolled to provide himself with arms, &c., and in five years require all muskets to have bores sufficient for balls of the eighteenth part of a pound. The Legislatures of some of the States have passed militia laws directing this to be done. Seventeen years have elapsed, and it has not been effected, it is believed, by any State in the Union. In New Jersey, only one regiment have (from fines collected from the Quakers within its bounds) purchased six hundred stand of arms and accoutrements.

The supply of arms, ammunition, camp equipage, arsenals, &c., in every State, ready for the militia, particularly for one-sixth thereof, being, perhaps, sufficient for any requisition of the United States, would give spirit and confidence to the great body of the militia.

The amendment of the Constitution of the United States, cited, secures "the right of the people to keep and bear arms;" nor will the Constitution of the United States, or the rights of the States, or of the people, be infringed, and I am very confident not endangered, if the concurrent authority of the National Government is exercised to provide arms, establish magazines, &c., and to arm, indeed, the great body of the militia of the United States.

Sixth. Would it be advisable to call out any portion of the militia, yearly, to take the field; and, if so, on what principle would it be advisable to adopt such a system?

Answer. Before this can be done to any advantage, arms, accoutrements, tents, and camp equipage must be furnished by the Government of the United States; after the National Legislature shall have provided and delivered into the magazines established in every State, sufficient for a requisition of, say, 100,000 men, to be enrolled for three years' service, from the junior class of militia, that is, between twenty-one and forty-five, according to the quotas of the several States, who shall meet once a year in the vicinity of the arsenal, and perform, for fifteen days, all the duties incident to a camp, to be exercised by their officers, and inspected by their respective State adjutant general, who will perform similar duties to those prescribed in the sixth section of the militia law of the United States.

Neither officers or men to receive pay, but to be furnished with rations and clothing, of a frock, pantaloons, &c., from the magazines, to be returned on breaking up the camp, &c.

Seventh. What are the prominent defects of the present system?

Answer. The answer to this question has been, in a manner, anticipated by the observations al-

Military and Naval Expenses.

ready made, particularly respecting the neglect of the Government of the United States in not making provision to supply arms, tents, &c.; establishing magazines in the several States; for the making of militia laws will not avail without arms, ammunition, camp equipage, &c., ready to take the field.

Whether the classification of the senior and minor, or either of these corps, be adopted; that, in preference to the proposed select corps, between twenty-one and twenty-six, the junior corps of men, between eighteen and forty-five, or twenty-one and forty-five, be put in requisition, without discrimination, whenever a call is made by the Government.

The returns of militia being very incorrect, the

quotas on the several States ought to be according to the representation in the House of Representatives in Congress.

I beg leave to suggest, here, that the law to take the census provides for the enumeration of all males under sixteen; between sixteen and twenty-one; between twenty-one and forty-five; and between the ages of forty-five and sixty; and from sixty upwards; at any rate, of the number of males between eighteen and forty-five, if the present militia system shall be continued.

Sincerely wishing you health, and many returns of this season of joy and festivity, I am, very respectfully, your most obedient servant,

JOSEPH BLOOMFIELD.

Hon. Col. B. TALLMADGE.

MILITARY AND NAVAL EXPENSES.

[Communicated to the House of Representatives, April 5, 1810.]

TREASURY DEPARTMENT, April 3, 1810.

SIR: I have the honor, in obedience to the resolution of the House of Representatives of the 31st ultimo, to transmit a statement of the annual amount of expenditure, in relation to the Military and Naval Establishments, from the 4th of March, 1789, to the end of the year 1809.

The sums paid for military pensions, and for the Indian department, are not included in the statement; but it embraces all other expenses, including those for fortifications, arms, and military stores, purchase of navy yards, and building of vessels.

I have the honor to be, &c.

ALBERT GALLATIN.

The Hon. the SPEAKER of the H. of R.

A statement exhibiting the gross annual amount of expenditure, in relation to the Military and Naval Establishments, from the 4th of March, 1789, to the end of the year 1809.

Years.	Military Establish- ment.	Naval Establish- ment.	Total.
From March 4, 1789, to December 31, 1791	\$632,804 03	—	\$632,804 03
Do. do. do. 1792	1,103,038 47	—	1,103,038 47
Do. do. do. 1793	1,132,443 91	—	1,132,443 91
Do. do. do. 1794	2,589,097 59	\$61,408 97	2,650,506 56
Do. do. do. 1795	2,422,385 81	410,562 03	2,832,947 84
Do. do. do. 1796	1,246,327 82	274,784 04	1,521,111 86
Do. do. do. 1797	1,002,299 04	382,631 89	1,384,930 93
Do. do. do. 1798	1,939,692 39	1,381,347 76	3,321,040 15
Do. do. do. 1799	2,405,669 17	2,858,081 84	5,263,751 01
Do. do. do. 1800	2,517,409 99	3,448,716 03	5,966,126 02
Do. do. do. 1801	1,600,944 08	2,111,424 00	3,712,368 08
Do. do. do. 1802	1,179,148 25	915,810 87	2,094,960 12
Do. do. do. 1803	822,055 85	1,246,317 89	2,068,373 74
Do. do. do. 1804	875,923 93	1,273,860 25	2,149,784 18
Do. do. do. 1805	712,781 28	1,597,500 00	2,310,281 28
Do. do. do. 1806	1,224,355 35	1,649,641 44	2,873,996 82
Do. do. do. 1807	1,288,685 91	1,722,064 47	3,010,750 38
Do. do. do. 1808	2,900,834 40	1,884,067 80	4,784,902 20
Do. do. do. 1809	3,345,772 17	2,427,758 80	5,773,530 97
	\$30,941,669 47	\$23,645,979 08	\$54,587,648 55

TREASURY DEPARTMENT, Register's Office, April 3, 1810.

JOSEPH NOURSE, Register.

*Mortality in the Troops at New Orleans.***MORTALITY OF TROOPS AT NEW ORLEANS.**

[Communicated to the House, April 27, 1810.]

Mr. NEWTON, from the committee, in obedience to a resolution which passed the House of Representatives of the United States, on the thirteenth of March last, instructing them to inquire into the cause or causes of the great mortality in the detachment of the Army of the United States, ordered for the defence of New Orleans, submitted the following report :

The committee perceived, at the instant their attention was directed to the subject referred to them, its importance, difficulty, and extent. The solicitude which was expressed for the acquisition of accurate information, and the manner in which the inquiries of the committee were pointed to a specific object, stimulated them to fulfil, to the utmost of their power, the expectation and desire of the House. In performing the duties assigned to them, they necessarily had many difficulties to encounter; these consisted in collecting, collating, and arranging a multitude of facts and circumstances which had their origin in a distant Territory, and the dissimilar aspects in which the same object would be represented, according to the medium through which it had been seen. Not discouraged at the prospect of such labors, they proceeded to commence them with every disposition, and with all the patience so essential to insure a fair, candid, and impartial disclosure of the state of the detachment of the Army ordered to New Orleans. To accomplish a purpose every way so desirable and interesting, and likewise to obviate objections, the committee, on mature deliberation and reflection, determined to make a plain and succinct statement of facts, as the method best calculated to impart information, and to guide the understanding in the formation of a correct judgment.

In pursuing this plan, which the committee early laid down for their observance, they are led to present to the House, in a narrow compass, the correspondence which passed between the Department of War and the commanding officer.

Next in order, the number of troops sent to New Orleans, and the present effective force.

The measures taken for paying the troops, and the precautions observed for insuring a prompt supply of sound and wholesome provisions for their subsistence.

The instructions given to the military agent by the Department of War, and the authority invested in the commanding officer over the military agent, as gathered from the instructions. Under this head will be included whatever relates to clothing and medical and hospital stores.

The depositions taken by the committee.

Lastly, the causes which, in the opinion of the committee, produced the mortality in that detachment of the Army.

A No. 1.

A letter from the Secretary of War, dated February 24, 1810, in answer to one addressed to him

in obedience to the direction of the committee, requesting information on the subject submitted to them.

The Secretary says, "I have the honor, accordingly, herewith to submit to their inspection a transcript of the original order, bearing date December 2, 1808, designating the force destined for the defence of New Orleans, and of the subsequent orders from this department, together with such extracts from the letters of the commanding general as relate to the selection and occupancy of, and the removal of the troops from, the encampment at *Terre au Bœuf*."

A No. 2.

On the 2d of December, 1808, the Secretary of War, (General Henry Dearborn,) in a letter to General James Wilkinson, says: "I am directed by the President of the United States to have the necessary measures taken, without delay, for assembling as large a proportion of our regular troops at New Orleans and its vicinity, as circumstances will permit." Immediately following this extract, the regiments and companies destined for New Orleans are designated, and the previous preparatory arrangements connected with the movements are directed to be made. The letter then concludes: "You will please to take measures for being at New Orleans in season to take command of the Army in that department as early as practicable, and to have such a disposition of the troops in that department formed, as will most effectually enable you to defend New Orleans and its dependencies against any invading force. In case of emergency, you are authorized by the President of the United States to call on the Governors of the Orleans and Mississippi Territories, for such detachments of the militia as may be deemed necessary."

On the 30th of April, 1809, the Secretary of War (William Eustis, Esq.) addressed a letter to General James Wilkinson, expressing great anxiety and solicitude for the health of the troops. Alluding to apprehensions on this important point, he proceeds to say, "on inspecting the general instructions given by this department, 2d of December, 1808, it appears that the troops were to be assembled at New Orleans: an apprehension that the letter of this instruction may be construed to limit any measures which your own judgment might suggest respecting a change of position, induces me to remove any such obstacle, if it shall have had an influence. By the returns of the 24th of March, it appears that more than one-fourth part of the troops were sick. Without a knowledge of this fact, the removal of the army from New Orleans, during the summer and autumnal months, is suggested by every consideration of prudence and experience. If, therefore, such removal shall not, on receipt of this letter, have been already commenced, you will be pleased to give the necessary orders to have it effected immediately. After leaving the necessary garrison, consisting of old troops, at New Orleans, it will be desirable that all the

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others should be transported either to the high ground in the rear of Fort Adams, or a part of them, in the rear of the Natchez; perhaps both these stations should be occupied, a division of the troops being more favorable to their health than quartering the whole together in one body: of this you will judge. The primary object will be, to preserve the health and lives of the men; next, to have them so quartered as will best admit of a regular system of order, government, and discipline, with as much economy as is practicable."

On the 29th of May, 1809, General James Wilkinson addressed a letter to the Secretary of War. He says, "after much inquiry, I have determined on a spot for the encampment of the troops. It was a difficult matter, from the localities of the country, to adjust; and, being an object of primary importance in relation to economy, discipline, and health, it has truly occupied all my cares and attentions, and will, I hope, be my excuse for inattention to minor objects." In the part immediately succeeding this extract, the General mentions that he had abandoned the idea of encamping on the site spoken of by General Henry Dearborn, called Galvestown, on the Amite river, on account of its being the most sickly spot in the Territory. The General then says: "with the general voice of the Americans and Creoles in favor of it, I have selected a piece of ground on the left bank of the Mississippi, below this city about four leagues, which I find perfectly dry at this moment, although the surface of the river, restrained by its dykes, is in general three feet above the level of the country. You will put your finger on the spot at the head of the English Turn, just where the route to the settlements on the Terre au Bœuf leaves the river. The disadvantages of the position are private ground, private wood, and its vicinity to New Orleans. But its advantages are, promised health, the best water of the country, the accommodation and comforts of a market, the immediate protection of the city, and the prompt defence of the river and lakes against an invading force. Under such considerations, and the rapid advance of the season. I could pause no longer; but shall proceed to take the position, and make the necessary establishments for the reception and safe-keeping of the stores and provisions, necessary to supply and support the troops, and for the comfortable lodgement of the sick and well."

Letter from General Wilkinson to the Secretary of War, dated

CAMP, TERRE AU BŒUF, June 18, 1809.

"Your letters of the 30th of April, and 4th ultimo did not reach New Orleans until the last mail, the 14th instant, though we received at the same time the President's Speech. I am happy that I have so far anticipated your wishes as to have encamped the troops, though I have not sought the position you recommended; nor should I have done so while permitted to exercise my discretion, and for the following reasons: The

movement to Fort Adams or to Natchez must have been made by water, as the Spaniards will not permit our passage through West Florida: the toil, the time, and exposition of the sun, in ascending the river one hundred leagues, with a corps of two thousand, would probably have diseased nine-tenths of the men, many of whom were in a convalescent state, and as many sick."

The General then states the expense of transportation; that the position is too remote for the seasonable protection of New Orleans against external attack or internal commotion; that the upper country might prove more sickly than the bank of the Mississippi; that the movement to Terre au Bœuf was made without inconvenience to the well, or injury to the sick, and at no expense, because the chalons which transported them will be employed in erecting the necessary temporary buildings, and for flooring the tents. The General further states, that the position taken is refreshed by sea breezes, and that, although more than five hundred sick and convalescent were brought to the ground which had been previously occupied by five hundred and sixty men, from the 1st instant not more than three men died, and one of these of an apoplexy; that the morning reports of the 13th and 16th will exhibit a frightful return of the sick; "yet, says he, you are to understand that nine-tenths are strongly convalescent, and are returned sick to prevent their being detailed for the general fatigues, to which we are now, and shall be for some time to come, necessarily exposed." After mentioning that the safety of those who are entrusted to his charge impress him with an awful sense of responsibility, and will occupy all his attention, he proceeds to say: "It is a source of pleasurable reflection to me, that the aspects and accommodation of the position have prepossessed every man and officer in its favor. We have a good market of vegetables, milk, eggs, and fowls, from the settlements of Terre au Bœuf." He then speaks of arrangements in the sutling department; wishes to be advised whether it is the intention of Government to erect a cantonment, as one would be necessary, either at Natchez or Terre au Bœuf: if the latter, expenses of such establishment are set forth. He then says, "I submit these observations to you for your consideration, as it is my duty to aid your judgment, and shall be ready to execute the Presidential will."

The Secretary of War to General James Wilkinson, dated

WAR DEPARTMENT, June 22, 1809.

Being unable to perceive any advantages in the position which you have selected for an encampment, as stated in your letter of the 29th of May, which give it a preference over the high ground in the rear of Fort Adams, or its vicinity, to which my letter of the 30th of April, directed, conditionally, the removal of the troops, I am left to presume, either that my letter has not been received, or that some causes, unknown to

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me and reconcilable with the object stated in that letter have governed your decision. On receiving this letter you will be pleased immediately to embark all the troops, leaving a sufficient garrison of old troops at New Orleans and at Fort St. Philip, and proceed with them to the high ground in the rear of Fort Adams, and to the high ground in the rear of Natchez, (the public ground,) and form encampments; dividing them equally, or in such proportions between the two places, as your own judgment shall direct. The enclosed copy of an order from the Navy Department will present you the means of transportation. The movement of the troops will be committed entirely to your direction."

By a letter bearing date Camp Terre au Boeuf, July 23, 1809, General Wilkinson acknowledges that the preceding order had come to his hand: he says, "your duplicate of the 22d ultimo reached New Orleans by last mail on the 19th, and came to my hands on the night of the 20th, at ten o'clock: the original has not yet arrived. The peremptory tenor of your order for the removal of the troops has relieved me from an oppressive load of responsibility, and I have not lost a moment in entering on the execution." He states the impossibility of controlling the effects of the climate; that it will be in vain to seek refuge from disease in that region, with unseasoned recruits. He also states that, when possession was taken of the present healthful site at Columbia Springs, near Fort Adams, two hundred and forty-six men were down at one time out of about five hundred. After mentioning some things relating to the movement of the detachment up the river, he says, "you will discover, from my letter of the 18th ult., the causes which opposed our ascent of the river; the employment of the gunboats removes the expense, and the labor of the sailors will save that of the troops, but the tardiness of the movement and the heat of the sun in dog-days must endanger our health."

After expressing his sense of the necessity of economy, and stating that the establishment had cost something, but that the cost will bear comparison with antecedent expenses, he then mentions that the public cost, in future, would not exceed six or eight hundred dollars per month, the year round, for every incidental expense, wood, pasturage, and quarters, included; and concludes thus: "under all circumstances, I must frankly say that, was my discretion permitted, I should stay here and hazard the consequences; but, as there would be hazard, I am glad of your order to move, not only as it lessens my responsibility, but because the change of place may prove salutary to our men; in all events you may depend on whatever my judgment, experience, personal exposition, and attention, can effect."

A No. 3.

The following letter, dated Camp, Terre au Boeuf, August 19, 1809, is addressed to the Secretary of War, by General Wilkinson: he says, "I have not received the scrip of a pen from you

since the 30th of June. but am progressing rapidly in my arrangements for moving the troops, an object near my heart, and which occupies all my attentions."

The General then states, that not one of the gunboats had been reported in readiness; that the preparation was difficult, owing to the general sickness of their crews, and the impracticability of shipping men; that the condemned barges at Fort Adams had been ordered down, and were repairing at a small expense; that, if the gunboats fail him, he should hire three or four barges, and that, in twenty days, he expected to make good his landing at Natchez, or in that vicinity. He then states, "our sick have increased considerably, but our maladies are confined almost universally to the ague and fever; nearly all the officers had it, but we have not lost one, nor do I expect we shall." He states the difficulties which occurred in the department of provisions: he says, "the clamors of the troops had been loud and just, that he had offered one hundred dollars for a small cow, without effect; that the flour was affected by the climate immediately after landing; and that, on the utter failure of the contractor to furnish bread or flour for two or three days successively, he had purchased a hundred, barrels of flour, and had the same distributed." He attributes to the absence of the contractor, and the consequent management of his business being entrusted to a young man, without knowledge or experience, and, apparently, of an obstinate, perverse disposition, all the difficulties they had to encounter on the subject of provisions. He then says, "I wish, indeed, that he may not oblige me to take the whole business out of his hands, and to appoint a commissary to purchase and supply; but, in the last extremity only, shall I resort to this step." After stating "that the inhabitants were down with the prevailing disease of the camp, a thing which, according to them, had never before occurred," he concludes thus: "I am alarmed for our medical and hospital expenses, but I do not understand that a particle of either has yet arrived for the new levies, and of course I have no alternative but to submit to the requisitions of the surgeons. We shall not, however, press your appropriations for this department, although the consumption of five or six hundred sick must be considerable."

Detachment of the Army ordered for the defence of New Orleans.

Aggregate, according to the returns which have been printed - - - - \$2,036

B. Absentees accounted for.

C. A return of the troops commanded by Brigadier General Hampton, for December, 1809.

D. A return of the troops at that cantonment, Washington, M. T., for January, 1810.

E. A return of the troops at the last-mentioned cantonment, for February, 1810.

Mortality in the Troops at New Orleans.

F. A return of deaths, desertions, and discharges, of the "additional military force," allotted for the defence of New Orleans, from 1st May, 1809, to February, 1810, viz:				
Deaths -	-	-	-	666
Desertions -	-	-	-	108
Discharges -	-	-	-	58
				852
G. A return of the effective strength of the "additional military force," allotted for the defence of New Orleans, taken from the latest reports which have been received at the inspector's office, Washington city, April 16, 1810, aggregate -				
				1,184
H. A return of a detachment of the United States' marines, stationed at New Orleans, from the 1st of March, 1809, to the 31st of December, 1809. Exhibiting the monthly force of the detachment, and the number of deaths, respectively.				

I.	
Funds placed at the disposition of the Paymaster of the Army of the United States, for the payment of the detachment ordered to New Orleans.	
Sum estimated for this object, for the year 1809 -	\$250,000
Lieutenant Simeon Knight, the district paymaster at New Orleans, as, in the early part of the year 1809, furnished with the sum of -	100,000
In June, 1809, Lieutenant Simeon Knight was authorized to draw for fifty thousand dollars, of which sum, he drew -	40,000
July, 1809, there was remitted to Lieutenant Simeon Knight, and received by him before the 7th of August following, the sum of -	100,000
Authority was given, in order to enable him to commence the payment of the troops for the year 1810, to draw for -	60,000

K.
Provisions.

These are furnished by contract. By the second article of the contract for supplying provisions to the troops, it is provided, "that it shall be in the option of the general or officer commanding an army on a great military district, to direct when and how often fresh or salted meat shall be issued by general orders, to be promulgated a reasonable time before the issue is to commence."

By the fourth article, "whenever, in the opinion of the commanding officer, the provisions offered to be issued are unsound, unfit for use, or of an unmerchutable quality, a survey shall be held thereon by two disinterested persons, one to

be chosen by the commanding officer, and the other by the contractor, or his agent; and, in case of disagreement, a third person, to be chosen by mutual consent, who shall have power to condemn such part of the provisions as to them may appear unfit for use." If the contractor, "or his agent, fail, or neglect to appoint a person to inspect the provisions, after reasonable notice in writing, the commanding officer may appoint such persons as he may think proper."

The fifth article authorizes the commanding general, in case of absolute failure, or deficiency in quantity, of provisions contracted to be delivered and issued, to supply the deficiency by purchase, at the risk of the contractor." The power conferred by the last article was, in one instance, exercised. That those granted by the fourth and fifth articles were not exercised, can be accounted for by this department, on the presumption only, that, in the opinion of the general, the country could not furnish the supplies.

L No. 1.

Instructions to the Military Agent at New Orleans, and amount of disbursements in that department.

The following instructions to A. D. Abrahams, the military agent at New Orleans, "to procure and deliver, on the orders of the commanding officer, such articles as he may deem necessary for the public service," was given by the Secretary of War, (General Henry Dearborn,) on the 12th of December, 1808.

L No. 2.

The Secretary of War, (William Eustis, Esq.) May 4, 1809, wrote to A. McCulloch, and informed him of his appointment as military agent, A. D. Abrahams having resigned. This letter contains many regulations for the agent's observance in executing the duties of his office. The above-mentioned instruction is repeated, and the following additional one given: "The expenditures should be as economical as the good of the service will permit. No article, it is presumed, will be required of you, but such as the nature and good of the service actually demand. Should it happen, however, at any time, that demands are made upon you to a large amount, the propriety of complying with which you may doubt, and where delay may not, in your judgment, prove injurious to the public interest, you are to consult this department." It appears Mr. McCulloch died in a few days after his arrival at New Orleans; on which Major Zebulon M. Pike, of the 6th regiment, was appointed, by General Wilkinson, as successor to Mr. McCulloch, and continued to discharge the duties of that office under the instructions given to Mr. McCulloch, until the removal of the troops from the encampment at Terre au Boeuf.

L Nos. 7 and 3.

The Secretary of War, in a letter addressed to the Committee, bearing date the 16th of April,

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1810, says: "Representation being made by the Accountant of this department, that many articles in the accounts rendered by Mr. A. D. Abrahams, the military agent, were charged at extravagant prices, the necessity of some of which did not appear, and the prices of others being deemed exorbitant, the military agent was informed, on the 10th of August last, that he was not authorized to comply with such requisitions in future. This is the only limitation of the instructions beforementioned, which has been made by this department." This last instruction to the military agent could not have reached him until some time in September last. The military agent, whenever he wanted funds, drew bills on the Department of War, which were regularly paid.

L Nos. 4, 5, and 6.

Disbursements in the Quartermaster and Medical and Hospital Departments, by A. D. Abrahams, Military Agent.

On account of that part of the Army stationed at New Orleans, and in its vicinity, between the 1st of January and 20th of July, 1809, including payments made for the charter of a part of the vessel employed to transport the troops to that place.—See document K - - \$55,188 43

Disbursements made by Major Pike, on same account, from the 21st of July to the 31st of December, 1809 27,474 73

\$82 663 16

NOTE.—The above sums embrace no part of the expenditures made on the fortifications erecting at New Orleans.

William Linnard, military agent at Philadelphia, in his letter of the 31st of March, 1810, states, that medical and hospital stores were shipped on board the schooner Hillsman; that she sailed from Philadelphia the 7th of January, 1809: was detained by ice; sailed again the 5th of March following, and arrived at New Orleans the 5th of April, and delivered the stores on the 7th and 8th.

M Nos. 1 and 2.

Clothing.

By the same letter from William Linnard, military agent, it appears, that the brig North Star sailed from Philadelphia the 6th of July, 1809, with clothing for the troops; arrived at New Orleans the 22d of August, and delivered the same in three days after her arrival; which was within twelve months of the time that the men of that detachment had generally received their clothing for the preceding year.

The Depositions.

Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12.

The committee, from a knowledge which they have acquired of the climate of New Orleans, 11th Con. 2d Sess.—77

and of the country surrounding it, and from the facts stated in the depositions, are of opinion, that the mortality in the detachment ordered to New Orleans is to be ascribed to the following causes:

1. The detachment consisting of new levies.
2. The insalubrity of the climate—the Summer and Autumn of the year 1809 being unusually sickly.
3. To the nature of the ground on which the detachment was encamped at Terre au Bœuf, and the detention of it at that place during the whole of the Summer, contrary, as the committee conceive, to the instructions contained in the letter of the Secretary of War, bearing date the 30th of April, 1809.
4. To the want of sound and wholesome provisions and of vegetables; the want of an hospital, and hospital stores and medicines.
5. The excessive fatigues to which the troops were subjected in clearing, ditching, and draining the ground on which they were encamped.
6. To the want of repose during the night, owing to the troops not being provided with bars or nets to protect them from the annoyance of mosquitoes.
7. The want of cleanliness in the camp, the nature of the position rendering it almost impracticable to preserve it.
8. The sick and well being confined to the same tents, which neither protected them sufficiently from the heat of the sun, nor kept them dry from the dews and rains.

A No. 1.

WAR DEPARTMENT, *February 24, 1810.*

SIR: In answering your letter of the 19th instant, requesting information on the following heads, viz:

1st. Whether the detachment from the Army of the United States sent to New Orleans was encamped at Terre au Bœuf, on the Mississippi, in pursuance of orders given to the commanding officer of that detachment?

2d. The object of the encampment of that detachment at Terre au Bœuf?

3d. Whether the detachment during the encampment at Terre au Bœuf, suffered in any respect for want of regular and necessary supplies?

4th. Whether the detachment was encamped in contravention to orders: if in contravention to orders, the time it so continued at that place?

I have adopted the course which has appeared to me most becoming the occasion, and best calculated to convey to the honorable committee, of which you are chairman, the information they have requested. I have the honor, accordingly, herewith to submit to their inspection a transcript of the original order, bearing date December 2, 1808, designating the force destined for the defence of New Orleans, and of the subsequent orders from this department, together with such extracts from the letters of the commanding general as relate to the selection and occupancy

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of, and the removal of the troops from, the encampment at Terre au Bœuf.

Previous to the issuing of the order of the 22d of June, a consultation was had with the Secretary of the Navy, the result of which justified an expectation that the necessary transports for the troops might be derived from the naval flotilla on the Orleans station; an order for that purpose was accordingly given.

On receiving the order of the 22d of June, it is believed that the General made every possible effort to procure the transports for his army; but the sickness which afflicted the Army, and the whole country, had also extended itself to the marine: owing to this circumstance, and the distance of the vessels from New Orleans, unexpected delays occurred; in addition to which, it being found necessary to have the assistance of the public boats at Fort Adams, which required repairs, the General found himself unable to embark the Army until the month of September, as stated in my letter of the 30th of January last.

At such time as the honorable committee may be pleased to appoint, I shall be ready to attend on them, and to give such further information as may be required.

With respectful consideration, &c.

W. EUSTIS.

HON. THOMAS NEWTON, *Chairman.*

A No. 2.

Letter from the Secretary of War to General James Wilkinson.

WAR DEPARTMENT, *December 2, 1808.*

SIR: I am directed by the President of the United States to have the necessary measures taken, without delay, for assembling as large a proportion of our regular troops at New Orleans and its vicinity, as circumstances will permit. You will please, therefore, to issue preparatory orders for the transportation to New Orleans of the 3d, 5th, and 7th regiments of infantry, with a battalion consisting of four companies from the 6th regiment, together with the companies of light dragoons, light artillery, and riflemen, raised in the States and Territories to the southward of New Jersey. The troops, generally, in the Atlantic States, should be assembled at Savannah, Charleston, South Carolina. Washington, North Carolina, Norfolk. and Hoods, Fort McHenry, and Fort Mifflin, where suitable vessels be provided for their transportation.

The troops raised in the Western States, together with the late Captain Bissell's company, will be provided with suitable boats for descending the Ohio and Mississippi. Captain Boote's company should march by land, from the Ocmulgee to Fort Stoddert or Fort St. Stephens. The field officers of each regiment of infantry, and one field officer of the respective corps of light dragoons, light artillery, and riflemen should be marched with their corps; and a major, with the battalion from the 6th regiment of infantry, together with the surgeons and mates of the regiments of infantry; a surgeon to the respective

corps of dragoons, artillery, and riflemen; and a mate with the battalion of the 6th regiment of infantry. Provisions for seventy-five days, with a supply of water for thirty-five days, should be put on board of each vessel for the men on board. Medicine and hospital stores, camp kettles, &c., will be forwarded, with ammunition and tents.

In giving your orders for the assemblage of the troops at the different points, it will not be necessary to give any indications of their ultimate destination.

One subaltern of each company, best qualified for the recruiting service, should remain at the respective rendezvous, with instructions to continue that service with all possible celerity; and to have their recruits assembled at the garrisons on the seaboard of the respective Atlantic States; and at Newport, in Kentucky, and Massac, from the Western States. It may, however, be advisable to direct the recruits, enlisted in the interior of Pennsylvania and Virginia, to assemble on the Western waters.

You will please to take measures for being at New Orleans in season to take command of the Army, in that department, as early as practicable; and to have such a disposition of the troops, in that department, formed, as will most effectually enable you to defend New Orleans, and its dependencies, against any invading force.

In case of emergency, you are authorized, by the President of the United States, to call on the Governors of the Orleans and Mississippi Territories, for such detachments of the militia as may be deemed necessary. I am, &c.

H. DEARBORN.

Letter from the Secretary of War to General James Wilkinson.

WAR DEPARTMENT, *April 30, 1809.*

SIR: In my letter of the 27th instant, a concern was expressed for the health of the troops, together with a confidence in your experience, knowledge of country, and entire competency and disposition to adopt every necessary measure respecting that very important object.

On inspecting the general instructions given by this Department 2d December, 1808, it appears that the troops were to be assembled at New Orleans; an apprehension that the letter of this instruction may be construed to limit any measures which your own judgment might suggest, respecting a change of position, induces me to remove any such obstacle, if it shall have had an influence.

By the returns of the 24th March, it appears that more than one-fourth part of the troops were sick.

Without a knowledge of this fact, the removal of the army from New Orleans, during the summer and autumnal months, is suggested by every consideration of prudence and experience.

If, therefore, such removal shall not, on receipt of this letter, have been already commenced, you will be pleased to give the necessary orders to have it effected immediately.

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After leaving the necessary garrison, consisting of old troops, at New Orleans, it will be desirable that all the others should be transported, either to the high ground in the rear of Fort Adams, or a part of them in the rear of Natchez; perhaps both these stations should be occupied, a division of the troops being more favorable to their health than quartering the whole together, in one body. Of this you will judge. The primary object will be to preserve the health and lives of the men; next, to have them so quartered as will best admit of a regular system of order, government, and discipline, with as much economy as is practicable. I am, &c.

W. EUSTIS.

Extract of a letter from General James Wilkinson to the Secretary of War, dated

NEW ORLEANS, May 29, 1809.

SIR: After much inquiry, I have determined on a spot for the encampment of the troops. It was a difficult matter, from the localities of the country, to adjust; and, being an object of primary importance, in relation to economy, discipline, and health, it has truly occupied all my cares and attentions, and will, I hope, be my excuse for inattention to minor objects.

Your predecessor had spoken with me respecting the site of Galvestown, on the Amite river, about sixty miles north of this place, and I proposed reconnoitering; but the idea was no sooner promulgated than some of the most ancient inhabitants called to inform me that it was the most sickly spot in the whole Territory, and that the Spaniards actually abandoned it on that account.

The advantages of this position would have been, public ground, public wood, and the removal of our recruits from the allurements, and sinister seductions of this licentious place. Its disadvantages, the proximity of the Spanish occupancy, and its distance from the most assailable points of the coast. Its character, and the prejudices which prevail against it, I believe on just grounds, are decisive on my determination; and, with the general voice of the American and Creole in favor of it, I have selected a piece of ground on the left bank of the Mississippi, below this city about four leagues, which I find perfectly dry at this moment, although the surface of the river, restrained by its dykes, is, in general, three feet above the level of the country. You will put your finger on the spot, at the head of the English Turn, just where the route to the settlements on the Terre au Bœuf leaves the river.

The disadvantages of this position are, private ground, private wood, and its vicinity to the city; the attractions of which will divert our green officers from due attention to their profession, and will expose them, as well as the men, to the arts, intrigues, dissipation, and corruption, of my personal enemies, and the enemies of the Administration and the Government, who are as busy, under the management of Clark and his cabal, as fiends of hell, to corrupt and seduce men and officers

from their duty, and to excite discontent and sedition. But its advantages are, promised health, the best water of the country, the accommodation and comforts of a market, the immediate protection of the city, and the prompt defence of the river and the lakes against an invading force. Under such considerations, and the rapid advance of the season, I could pause no longer, but shall proceed to take the position, and make the necessary establishments for the reception and safe keeping of the stores and provisions necessary to supply and support the troops, and for the comfortable lodgement of the sick and well.

Extract of a letter from General James Wilkinson to the Secretary of War, dated,

CAMP, TERRE AU BŒUF, June 19, 1809.

Your letters, of the 30th April and 4th ultimo, did not reach New Orleans until the last mail, the 14th instant, though we received, at the same time, the President's speech.

I am happy that I have so far anticipated your wishes as to have encamped the troops, though I have not sought the position you recommended: nor should I have done so, while permitted to exercise my discretion, and for the following reasons: The movement to Fort Adams, or to Natchez, must have been made by water, as the Spaniards will not permit our passage through West Florida; the toil, the time, and exposition to the sun, in ascending the river one hundred leagues, with a corps of two thousand, would probably have diseased nine-tenths of the men, many of whom were in a convalescent state, and as many sick; the expense of transportation would have exceeded twelve, or might have reached twenty thousand dollars; the position is too remote for the seasonable protection of New Orleans against external attack or internal commotion; and, after all, we might have found the upper country more sickly than the bank of the Mississippi, which frequently occurs. The movement to this place, on the contrary, was done without incommodation to the well, or injury to the sick, and at no expense, because the chalons which transported them will be employed in erecting the necessary temporary buildings, and for flooring the men's tents. It is impossible to decide whether we shall have a sickly or healthy season, but our proximity to the waters of the ocean, from which we have a breeze, together with appearances, so far, encourage us to believe in the latter; for, although we brought more than five hundred sick and convalescents to this ground, which had been previously occupied by five hundred and sixty men, from the 1st instant we have lost three men only, and one of these by an apoplexy. The morning reports of the 13th and 16th will speak for our convalescence, but will exhibit, at the same time, a frightful return of sick; yet you are to understand that nine-tenths of these are strongly convalescent, and are returned sick by order, to prevent their being detailed for the general fatigues, to which we are now, and shall be for some time to come, necessarily exposed. Whatever may

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be the result, rest assured, sir, that the safety of those who are entrusted to my charge impress me with an awful sense of responsibility, and will occupy my first attentions, assiduities, and cares; and it is a source of pleasurable reflection to me, that the aspects and accommodation of the position have prepossessed every man and officer in its favor. We have a good market of vegetables, milk, eggs, and fowls, from the settlements of Terre au Bœuf, and I shall make such arrangements in the sutling department as entirely to exclude the use of ardent spirits, which have been the bane of the service, and has destroyed more men than every other cause. I shall, at the same time, encourage the use of malt liquors, and small red wines, which may be had almost as cheap as whiskey.

As the troops must not return to New Orleans, one hundred and fifty men being sufficient for the garrison of that place, it would appear as a necessary consequence, that we must erect a cantonment somewhere, of which I cannot be too early advised, whether it be here, or at Natchez. If here, the proprietor will sell a site to the Government; or, he will give the use of the ground, with pasturage enclosures for our horses and cattle, and firewood the year round, for two thousand men, at five hundred dollars per month; and I do not believe better terms could be had in the Mississippi Territory. Our wood would cost, in New Orleans, one thousand one hundred dollars per month in summer, and three thousand five hundred dollars in winter. Should our force be kept up, and this place be fixed on, the huts can be put up by the men in a short period, and at a trifling expense, and the circumstance of receiving our subsistence on the river instead of the interior of the upper country, will save two cents per ration.

I submit these observations to you for your consideration, as is my duty, to aid your judgment, and shall be ready to execute the Presidential will.

Extract of a letter from the Secretary of War to General James Wilkinson, dated

WAR DEPARTMENT, June 22, 1809.

Being unable to perceive any advantages in the position which you have selected for an encampment, as stated in your letter of the 29th May, which give it preference over the high grounds in the rear of Fort Adams, or its vicinity, to which my letter of the 30th April directed, conditionally, the removal of the troops, I am left to presume, either that my letter has not been received, or that some causes unknown to me, and reconcileable with the objects stated in that letter, have governed your decision.

On receiving this letter, you will be pleased immediately to embark all the troops, leaving a sufficient garrison of old troops at New Orleans and Fort St. Philip, and proceed with them to the high ground in the rear of Fort Adams, and to the high ground in the rear of Natchez, (the public ground,) and form encampments, dividing

them equally, or in such proportion between the two places, as your own judgment shall direct. The enclosed copy of an order from the Navy Department will present to you the means of transportation. The movement of the troops will be committed entirely to your direction.

W. EUSTIS.

NAVY DEPARTMENT, June 22, 1809.

SIR: The Secretary of War having made application for the use of the gunboats under your command, for the purpose of removing the troops under the command of General Wilkinson up the Mississippi, you may retain as many of the boats as you may think absolutely necessary at your present station, and detach the remainder of them on this service, which I contemplate to be simply of the transport kind. The boats so detached are to continue on that service until the removal of the troops shall have been completed, unless contingencies shall arise which may require their being recalled previously; of which you are to judge. You are, yourself, to remain, during this service, at your station; and the boats having returned, you will be at liberty to avail yourself of the permission already forwarded you, "to come to the Atlantic States." You will inculcate on the officers commanding this detachment, the necessity of harmonizing with the military in every matter necessary to the most speedy attainment of the object intended to be effected.

Respectfully yours,

PAUL HAMILTON.

Capt. D. PORTER, *New Orleans.*

Extracts of a letter from General James Wilkinson to the Secretary of War, dated,

CAMP, TERRE AU BŒUF, July 23, 1809.

SIR: Your duplicate of the 22d ultimo, reached New Orleans by the last mail, on the 19th, and came to my hands on the night of the 20th, at 10 o'clock P. M.; the original has not yet arrived.

The peremptory tenor of your order for the removal of the troops has relieved me from an oppressive load of responsibility, and I have lost not a moment in entering on the execution. Nothing on my part shall be wanting to effect the transition, in the manner the most favorable and least afflicting to the troops; though, as it is impossible to control the effects of the climate, I fear it will be in vain for us to fly from disease in this region with our unseasoned recruits; for it occurs to me, that, when we took possession of the present healthful site at Columbia Springs, near Fort Adams, we had two hundred and forty-six men down at one time, out of about five hundred.

I am undetermined whether to move in a body or by detachment, but shall pursue that course which promises the greatest expedition. I fear delay on the part of the gunboats, because I know from experience the gentlemen of the Navy abhor the idea of converting their vessels of war into transports; and, from the report of Lieutenant

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Carroll, it would appear that twenty-four gunboats, the number on this station, would not carry more than nine hundred and sixty men, little more than half our force. I have, however, a remedy for this difficulty, and if the gunboats are furnished, shall leave behind none but those who are too ill to be removed.

You will discover from my letter, of the 18th ultimo, the causes which opposed our ascent of the river; the employ of the gunboats removes the expense, and the labor of the sailors will save that of the troops, but the tardiness of the movement, and the heat of the sun in dog-days, must endanger our health.

I am so sensible of the necessity of economy, that I tremble at the idea of putting my name to paper for anything; but my obligations to the service leave me no alternative. You shall not, however, have cause of complaint from my administration.

This establishment has cost something; but that cost will bear a comparison with antecedent expenses, and our camp, with the necessary accommodations, is nearly completed; after which we should not have cost the public more than six or eight hundred dollars per month, the year round, for every incidental expense, wood, pasturage, and quarters, included.

Under all circumstances, I must frankly say, that, was my discretion permitted, I should stay here and hazard the consequences; but, as there would be hazard, I am glad of your order to move, not only as it lessens my responsibility, but because the change of place may prove salutary to our men. In all events, you may depend on whatever my judgment, experience, personal exposition, and attention, can effect.

A No. 3.

CAMP, TERRE AU BŒUF, Aug. 19, 1807.

SIR: I have not received the scrip of a pen from you since the 30th of June, but am progressing rapidly in my arrangements for moving the troops, an object near my heart, and which occupies all my attentions.

Our prospects from the gunboats are bad indeed; not one of them has, as yet, been reported to me in readiness to commence the voyage, and the preparation is a difficult one, owing to the general sickness of their crews, and the impracticability of shipping men; but I have ordered certain condemned barges from Fort Adams, which have been lying there since 1807, and are now repairing, and equipping them, at the expense of a few nails and a small quantity of oakum and tar for the voyage. To these I shall add, if the gunboats fail me, three or four hired barges to take a full company each. And with this transport, I hope I may, by marching the well, be able to move every man from hence whose health may permit, and that I shall make good my landing at Natchez, or in that vicinity, in twenty days after we get under way. The operation is a laborious one, and somewhat hazardous; but you may rest assured that whatever zeal, activity, and

attention, can accomplish, shall be done on my part.

Our sick have increased considerably; but our maladies are confined almost universally to the fever and ague. Nearly all the officers have had it, but we have not lost one, nor do I expect we shall.

Among the thousand difficulties I have had to combat, that of the department of provisions is not the least considerable. The clamors of the troops have been loud and just, and I have not been able to remedy their complaints. I have offered as high as a hundred dollars for a small cow, without effect; and the flour, generally, in New Orleans, from some unknown cause, has this season been affected by the climate immediately after landing. But, in consequence of the utter failure of the contractor to furnish bread or flour to the troops, for two or three days successively, I yesterday ordered a purchase, on any terms, of one hundred barrels, which arrived this morning, but has been refused by the contractor's agent, who got down a few barrels the last night, and, of consequence, I am compelled to order the issue to be made by the brigade quartermaster, for account of the contractor, which adds to my pains and perplexities.

Were the contractor here, from my knowledge of his character, I know these difficulties would not occur; but unfortunately his business is confided to a young man without knowledge or experience, and apparently of an obstinate, perverse disposition. I wish, indeed, that he may not oblige me to take the whole business out of his hands, and appoint a commissary to purchase and supply; but in the last extremity only shall I resort to this step.

The inhabitants of this whole country are now down with the prevailing disease of the camp—a thing which, according to them, has never before occurred; and the town is afflicted by bilious affections.

I am alarmed for our medical and hospital expenses; but I do not understand that a particle of either has yet arrived for the new levies, and, of course, I have no alternative but to submit to the requisitions of the surgeons; we shall not, however, press your appropriations for this department, although the consumption of five or six hundred sick must be considerable.

With perfect respect, &c.

JAMES WILKINSON.

Hon. W. EUSTIS, Sec. of War.

1.

CITY OF WASHINGTON,
Pay Office, April 10, 1810.

SIR: In compliance with the requisition which you have communicated to me, as made to you by the committee of Congress, "whether the paymaster of the detachment of the Army of the United States, ordered for the defence of Orleans, had in his hands the funds necessary for the payment of the troops," I have the honor to state that, from the best estimate I could form, the sum of

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\$250,000 appeared sufficient for that object, for the year 1809; and that Lieutenant Simeon Knight, the district paymaster in that quarter, was furnished with \$100,000 in the early part of that year, on his bills in favor of the receiver of public moneys at Orleans; that \$100,000 were remitted him in July last, and received by him before the 7th of August; and he was, moreover, authorized, on the 14th of June last, to draw on me for \$50,000—\$40,000 of which he has since drawn for, which, I presume, he considered as sufficient to pay the troops in his district, to the 21st of December last.

In addition to the foregoing, he has authority to draw for \$60,000, to commence the payment of the troops for the present year.

I have the honor to be, &c.

R. BRENT, *Paymaster, U. S. A.*

Hon. WM. EUSTIS, *Sec. of War.*

K.

WAR DEPARTMENT, *April 4, 1810.*

SIR: In addition to the information which I had the honor to communicate, in person, to the committee, relative to the 3d head of inquiry, contained in your letter of the 19th of February, viz: "Whether the detachment, during the encampment at Terre au Bœuf suffered, in any respect, for the want of regular and necessary supplies?" I have the honor to state, that it appears, from the enclosed copy of a letter from the General, dated August 19, 1809, that much dissatisfaction existed in respect to the quality of the provisions furnished by the contractor; that the supply was not at all times regular, and that the difficulty of procuring fresh meat was almost insurmountable.

These representations have been corroborated from other sources of intelligence. By the 2d article of the contract for supplying provisions to the troops, it is provided: "That it shall be in the option of the general, or officer commanding an army or a great military district, to direct when, and how often, fresh or salted meat shall be issued, by general orders, to be promulgated a reasonable time before that issue is to commence."

By the 4th article, "whenever, in the opinion of the commanding officer, the provisions offered to be issued are unsound, unfit for use, or of an unmerchantable quality, a survey shall be held thereon by two disinterested persons, one to be chosen by the commanding officer, and the other by the contractor, or his agent; and, in case of disagreement, a third person to be chosen by mutual consent, who shall have power to condemn such part of the provisions as to them may appear unfit for use." If the contractor or his agent fail or neglect to appoint a person to inspect the provisions, after reasonable notice in writing, the commanding officer may appoint such persons as he may think proper.

The 5th article authorizes the commanding general, "in case of absolute failure or deficiency in the quantity of provisions, contracted to be delivered and issued," to supply the deficiency by purchase, at the risk of the contractor. The

power conferred by the last article was, in one instance, exercised; that those granted by the 4th and 5th articles were not exercised, can be accounted for by this department, on the presumption only, that, in the opinion of the General, the country could not furnish the supplies.

Complaints have also been made of a want of medicine and hospital stores. It appears from the enclosed extract of a letter from Mr. Linnard, military agent at Philadelphia, of the 31st ultimo, that a stock of medical and hospital stores, for two thousand men, for three months, which were ordered for New Orleans by this department, in December, 1808, arrived at their place of destination on the 5th of April following, (at this period the whole of the additional force had not reached that place;) and that the brig North Star, which transported the clothing and the annual supply of medicine and hospital stores, for the new troops on that station, arrived on or about the 22d of August last.

In addition to these supplies it appears, from the accounts of the military agent at New Orleans, rendered to the accountant of this department, that, between the months of March, 1809, and January, 1810, medical and hospital stores, and other articles for the use of the sick, were purchased, and paid for to the amount of \$11,800. When to this it is added, that the agent was at all times subject to the order of the commanding officer, and bound to comply with his requisitions for all articles necessary, in his opinion, for the health and accommodation of the troops, the causes of any alleged deficiencies are inexplicable by this department.

With perfect consideration, &c.

W. EUSTIS.

Hon. THO. NEWTON, *Chairman, &c.*

L No. 1.

WAR DEPARTMENT, *Dec. 23, 1808.*

SIR: On account of the troops it will be proper for you to procure, and deliver, on the orders of the commanding officer, such articles as he may deem necessary for the public service.

You will, at all times, charge all articles so delivered to the proper head of expenditure; and to prevent any mistakes in your accounts, when the orders to you are not so explicit as to enable you to decide under what head the article should be charged, you will request the commanding officer to give you such information as the case may require. You will advance no money except for articles actually received, or for services performed. The expenditures should be as economical as the good of the service will permit. No articles will, I trust, be required of you but such as the nature and good of the service actually demand; such as workmen, and materials for fortifications for quarters; transportation and other articles for barracks or camp, will be sent from this quarter to your care, as well as cannon and ammunition. I am, &c.

H. DEARBORN.

A. D. ABRAHAMS, *New Orleans.*

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L No. 2.

WAR DEPARTMENT, May 4, 1809.

SIR: A. D. Abrahams, Esq. military agent for the Southern department, being solicitous to relinquish that office, the President of the United States has appointed you to succeed him; and, should the Senate, at their next session, advise and consent to said appointment, you will be commissioned accordingly.

Your office, as military agent, is considered as a substitute for what has generally been called a deputy quartermaster general; and your department includes all the military posts within the Territory of Orleans, and in that part of the Mississippi Territory lying south of the 22d degree of north latitude, including all those on the Mobile and its waters.

Before you enter on the duties of your agency, you will execute the enclosed bond, with two or more sufficient securities, and will take and subscribe the oath of office, and the oath prescribed by the act, entitled "An act fixing the Military Peace Establishment." As soon as the bond is duly executed, you will forward it, with the oaths, to this department.

You will consider the assistant military agents, and the quartermasters, whether brigade or regimental, within your department, as under your direction; you will furnish them with funds, for which they will be accountable to you. They will correspond with, and make regular returns to you of all articles received by them, with proper vouchers for all deliveries and expenditures. They are not to make any purchases or expenditures, excepting what shall be absolutely necessary, without your particular direction.

You will receive herewith a copy of the rules and articles of war for your government; and of the regulations of this department; to which, as far as they regard your duties, and are not inconsistent with these instructions, you will, in all respects, conform.

You will, with promptness, and in the most safe and economical manner, cause all military, medical, and hospital stores, and all goods for Indians, which you may receive for transportation, to be forwarded to their respective destinations.

You will procure, and deliver, on the order of the commanding officer in your department, such articles as he may deem necessary for the public service. You will, at all times, charge all articles so delivered to the proper head of expenditures; and to prevent any mistakes in your accounts, when the orders to you are not so explicit as to enable you to decide under what head the articles should be charged, you will request the commanding officer to give you such explanation as the case may require. You will advance no money except as before directed, or for articles actually received, or for services performed. The expenditures should be as economical as the good of the service will permit. No article, it is presumed, will be required of you, but such as the nature and good of the service actually demand.

Should it happen, however, at any time, that demands are made upon you to a large amount, the propriety of complying with which you may doubt, and where delay may not, in your judgment, prove injurious to the public interest, you are to consult this Department.

If Mr. Cox, the Purveyor of Public Supplies, shall request you to purchase any articles which may be procured in your vicinity, at less expense than at Philadelphia, you will please to make such purchases, he furnishing you with the money.

In addition to the duties of military agent, you will procure such materials, and hire such laborers and mechanics, as may be required of you by the engineer, for erecting, completing, and repairing such works as have, or may be ordered for the defence and protection of New Orleans and its vicinity. Your accounts, for expenditures under this head, you will keep in conformity with the enclosed instruction from the accountant of this department.

You will be allowed one clerk for your office of military agent, at the rate of \$750 per annum.

For your services, as agent for fortifications, you will receive a reasonable commission on the moneys necessarily expended in the performance of its duties.

You will, from time to time, seasonably transmit to this department estimates of the moneys that may be required to meet the expenditures in your agencies; on the receipt of which the requisite funds will be ordered to your credit in the office of discount and deposit at New Orleans.

Should you accept of the military agency for the Southern department, you will please to proceed to New Orleans without delay, and there take upon yourself the duties of your appointment. Major Pike, the acting military agent, is instructed, by the enclosed letter, to deliver to you all the public papers, documents, and property, in his possession, and to pay over to you the balance of public moneys remaining in his hands, which you will please to receive, giving him your duplicate receipts for the same. I am, &c

W. EUSTIS.

A. McCULLOCH, Esq.

L No. 3.

WAR DEPARTMENT, April 16, 1810.

SIR: In compliance with your request, made this morning, I have the honor herewith to transmit No. 1, a copy of the instructions given to Mr. A. D. Abrahams, military agent at New Orleans, dated December 12, 1808.

On the resignation of Mr. Abrahams, Mr. Andrew McCulloch was appointed to succeed him, under instructions, a copy of which, No. 2, is herewith enclosed, bearing date May 4, 1809. Mr. McCulloch died in a few days after his arrival, on which Major Zebulon M. Pike, of the 6th regiment, was appointed by General Wilkinson as successor to Mr. McCulloch, and continued to discharge the duties of that office, under the instructions given to Mr. McCulloch, until after

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the removal of the troops from the encampment at Terre au Bœuf.

Representation being made by the accountant of this department, that many articles in the accounts rendered by Mr. A. D. Abrahams, the military agent, were charged at extravagant prices, the necessity of some of which did not appear, and the prices of others being exorbitant, the military agent was informed, on the 10th of August last, that he was not authorized to comply with such requisitions in future. This is the only limitation of the instructions before mentioned, which has been made by this department.

It appears, from the instructions to Mr. McCulloch, that he was required to render, from time to time, to this department, estimates of the probable expenditures in his agency; on the receipt of which, moneys were to be ordered to his credit in the office of discount and deposit at New Orleans. In practice, this arrangement was found inconvenient, and not calculated to meet occurring emergencies. The military agent therefore continued to draw bills on this department, which were regularly paid on being presented.

The enclosed statement will exhibit their amount for the year 1809.

I have the honor to be, &c.

W. EUSTIS.

Hon. Tho. Newton, *Chairman &c.*

L No. 4.

WAR DEPARTMENT,

Accountant's Office, April 16, 1810.

Amount of disbursements in the quartermaster's, and medical and hospital departments, made by A. D. Abrahams, military agent, on account of that part of the Army stationed at Orleans and in its vicinity, between the 1st of January and the 20th of July, 1809, including payments made for the charter of a part of the vessels employed to transport the troops to that place - - - - \$55,188 43

Estimate of disbursements, made by Major Pike, on same account, from the 21st July, to 31st of December, 1809 - - - - 27,474 73

\$82,663 16

NOTE.—The above sums embrace no part of the expenditures made on account of the fortifications erecting at Orleans.

WM. SIMMONS.

L No. 5.

Amount of disbursements made by A. D. Abrahams, Military Agent at New Orleans, in the medical and hospital department, between the 1st of April and 22d of July, 1809.

In April, for 135 dollars and 68 cents' worth of medicine; for 14 bed sacks, at six dollars each; 7 pair of blankets, at 5 dollars each; 2 water buckets, at 5 dollars each; 22 pair of sheets, at 5½ dollars each; and other articles; amounting together to - - - - \$517 93

In May, for 60 sheets, at 6 dollars each; 95 musquito bars, at 4½ and 7 dollars each; a bathing tub, at 12 dollars; 16 dozen fowls, at 7½ dollars per dozen; 44 dozen eggs, at 31½ cents per dozen; a pigeon, at 2 dollars; and sundry small articles; amounting together to - - -

1,425 24

And also 20 bunks at \$3½ each.

In June, for 6 barrels of Indian meal, at 3½ dollars each; 21 lbs. tea, at 1½ dollars each; 1 dozen towels, 15 dollars; 4 foot mats, at 3 dollars and 50 cents each; 2 dozen port wine, at 12 dollars each; 3 dozen porter, at 4½ dollars each; 5 gallons Madeira wine, 5 dollars each; 30 gallons Sherry wine, at 2 and 2½ dollars each; 11 dozen fowls, at 7½ dollars each; 66 dozen eggs, at 31½ cents; 32 gallons milk, at 56 cents each; molasses, vinegar, sugar, coffee, and sundry small articles, washing for the hospital, &c. amounting together to - - - -

665 23

In July, for services of a nurse; for washing; for 9 dozen porter, at 5 dollars; 14 dozen fowls, at 7 dollars per dozen; 60 dozen eggs, at 37½ cents; 60 gallons milk, at 56 cents; molasses, sugar, rice, butter, coffee, glauber salts, a large syringe, jalap, antimonial wine, and sundry small articles; amounting together to -

579 52

\$3,087 92

L No. 6.

Abstract of disbursements made by Major Z. M. Pike, acting Military Agent, in the Medical and Hospital Department, between — September and 21st December, 1809.

Payments made to the 30th of September, 1809 for 1,136 dollars and 41 cents worth of medicine, purchased between the 1st of April and 30th of September, 1809; for 605 lbs. of mutton, purchased in July and August, 1809, at 18½ cts. per lb.; for washing in September; for 100 lbs. mutton in September; for vegetables, sugar, milk, salt, coffee, hay, and other small articles in September, amounting together to - - - - \$1,497 82

Payments in October, for 1,000 dollars worth of medicine, furnished in July, August, and September; for sheep, at four dollars; for calves, at nine dollars; for wood, vegetables, every kind of groceries, milk, egg, fowls, meat, butter, lard, crackers, hay, and a great variety of small articles, between July and the 31st of October, 1809, corresponding in price with the purchases of Mr. Abrahams, and amounting to -

4,535 71

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Payments in November, for 138 dollars' worth of medicine; for washing; for meat, vegetables, and groceries of all kinds, amounting together to - - - - -	964 98
Payments in December, for services of nurses and attendants; for 105 dollars and 95 cents worth of medicine; and for a variety of groceries, amounting together to - - - - -	722 60
	\$8,721 11

L No. 7.

Item of articles, with their prices, which appeared objectionable in the account of the Military Agent at New Orleans.

May—16 dozen fowls, seven dollars and 50 cents per dozen - - - - -	\$120 00
44 dozen eggs, 31½ cents per dozen - - - - -	13 75
June—1 dozen towels - - - - -	15 00
4 foot mats, 3 dollars and 50 cents each - - - - -	14 00
2 dozen port wine, 12 dollars per dozen - - - - -	24 00
3 do. porter, 4 dollars and 50 cents per dozen - - - - -	13 50
5 gallons Madeira wine, 5 dollars per gallon - - - - -	25 00
11 dozen fowls, 7 dollars and 50 cents per dozen - - - - -	82 10
66 dozen eggs, 31½ cents per dozen - - - - -	20 62½
July—9 dozen porter, 5 dollars per dozen - - - - -	45 00
14 dozen fowls, 7 dollars per dozen - - - - -	98 00
60 do. eggs, 37½ cents per dozen - - - - -	22 50

M No. 1.

Extract of a letter from William Linnard, Esquire, Military Agent, to the Secretary of War, dated

PHILADELPHIA, March 31, 1810.

SIR: "Your favor of the 28th inst. has been received. In answer to your inquiries, I have the honor to state, that the medicine and hospital stores, shipped on board the schooner Hillman, were those ordered on the 26th of December, 1808; three months' stock for 2,000 men. The schooner sailed from Philadelphia, the 7th of January, 1809. The day she sailed, the frost set in extremely severe, and so much ice was made in the course of the night, the captain was obliged to make a harbor, where she remained all winter; she sailed again on the 6th of March, and arrived at New Orleans the 5th of April, and delivered the stores the 7th and 8th.

"The brig North Star sailed from Philadelphia the 6th of July, 1809, had a long passage, arrived at New Orleans about the 22d of August, and delivered the stores in three days after her arrival. Anxious to send the goods by this vessel, the only one in port destined for that place, I detained her six days waiting for the clothing; the last was put on board the day she sailed."

M. No. 2.

WAR DEPARTMENT, April 10, 1810.

SIR: In reply to the inquiry of the committee, "whether the paymaster of that detachment of

the Army of the United States, ordered for the defence of New Orleans, had in his hands the funds necessary for the payment of the troops?" I beg leave to refer them to the enclosed statement of this date, from the paymaster of the Army.

In answer to your other inquiry of the 9th instant, I have the honor to state, for the information of the committee, that the brig North Star, which transported the clothing for that detachment, appears (from the extract of Mr. Linnard's letter now before the committee, to have sailed from Philadelphia on the 6th of July, 1809, and to have arrived at New Orleans, on or about the 22d of August following, which was within twelve months of the time that the men of that detachment had generally received their clothing for the preceding year.

With perfect consideration, I am, sir, your obedient servant,

W. EUSTIS.

Hon. T. NEWTON, Chairman, &c.

Depositions.**No. 1.**

Esaias Preble's deposition, March 16, 1810.

Esaias Preble, of the United States' regiment of artillery, deposes, that, about the last of April, 1809, a detachment of the United States' troops, under the command of Captain Peter, attached to different regiments, descended the river Mississippi for New Orleans; they halted at Fort Adams, at which place I was stationed: at that time they appeared to be young, able for any duty, and well clothed. A number of smaller detachments afterward passed down said river in a similar situation.

About the middle of October following, that part of the additional army that had been stationed in the neighborhood of New Orleans, halted at Fort Adams, on their way up the river for Washington, Mississippi Territory, under the command of Lieutenant Colonel Beall. After being encamped two or more days on the bank of the river, a party, consisting of one hundred and twenty non-commissioned officers and privates, from the regiment of light artillery, light dragoons, 3d, 5th, and 7th regiments of infantry, and regiment of riflemen, was sent into Fort Adams and buildings attached to the fort. On, or about the 23d of October, 1809, I was directed by the commanding officer of the post, to take charge of said troops, and report their situation. I applied to Doctor Thruston, the surgeon of the 7th infantry, in whose charge they were left, and the only officer left with them, for a list of said men. I then made an examination, and found seventeen had died; the residue, except twenty, were very sick; eight or ten were in an open room in which they could have no fire, some of them no blanket, and almost naked; and all, with one or two exceptions, extremely dirty. The last of November following, fourteen more of the said troops were left sick at Fort Adams, which, together with those left in October, amounted to

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one hundred and thirty-four, from which sixty-eight died at said fort.

During the last three years, there have been moored at Fort Adams, from eight to eighteen boats, that would carry, on an average, thirty men, public property, under the direction of the commanding officer of the post. In August, 1809, eight or ten of said boats were dispatched to New Orleans, one of which sunk on its passage. During the last year, from the company stationed at Fort Adams, not more than five men died: from seven companies of the 2d regiment of infantry stationed at Columbian Springs, not more than eight men died the last year.

In the vicinity of Fort Adams and Columbian Springs, beef, poultry, butter, eggs, and vegetables, such as the country produces, may be obtained at any season of the year. During my residence in the Army, clothing for the troops has been forwarded to the commanding officers of the companies six months in advance, and issued to the troops in the same manner. The clothing for the companies at Fort Adams and Columbian Springs arrived at the said fort by the way of New Orleans, in July, 1809.

E. PREBLE.

March 16, 1810, sworn to before me,
S. H. SMITH.

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No. 2.

Deposition of William D. Beall, Lieutenant Colonel of the 5th infantry of the Army of the United States, taken by the committee of the House of Representatives of the United States, appointed to inquire into the cause or causes of the great mortality in that detachment of the Army of the United States ordered for the defence of New Orleans.

I arrived at Camp, Terre au Bœuf, 12 or 15 miles below New Orleans, on the river Mississippi, on the 12th of June, 1809.

The troops were regularly encamped in tents, in two lines, covering ground about 800 yards in length, and 75 in depth, (the depth of the encampment was about 175 yards.) The tents, after a while, were raised and floored with plank taken from the Kentucky boats which were used to transport the army from Orleans. The ground was low, as is the case of all in the vicinity of New Orleans, and particularly after rain, wet, and a part being cleared of the bushes, weeds, &c. by the troops, was muddy, and the back part, during the wet season, a little marshy. To remedy the disadvantage of such ground, ditches were cut in every direction; indeed, every precaution was taken to render the camp comfortable; the General seeming to have an eye to every circumstance, being absent from the camp not more than six or eight days from the 12th of June to 10th of September following. Little arbors, covered with palmetto, were erected at the necessary distance from each other, on the line of sentinels, that each man, in his place, might be screened from the piercing rays of the sun, and sheltered from the rain; and these arbors were also erected from right to left of the line between the

front and rear, that the men might sit and mess in comfort and cleanliness. A ditch was dug parallel with the encampment, in the rear, to afford a dry walk to the sentinels, and on which to erect the before-mentioned arbors.

I do not think half the ground used for the camp was cleared by the troops; this must have been an advantage to the proprietor, but I rather apprehend the ditches were a disadvantage.

A tolerable large hospital was erected of materials partly from the boats before mentioned, and partly from the neighboring woods, into which the most reduced men were put, under the care of a very attentive and experienced surgeon: some of the sick, as occasion required, were sent to the hospital at Orleans; the vessel containing medicine and hospital stores not arriving until August, as the want of these articles occurred, the General directed them to be procured at Orleans, as also poultry, to be given to the men most in need, at the discretion of the surgeons, but the supply of this last article was not regular. A captain of the line, (Captain Dale,) of medical profession, was ordered to procure medicine, and take upon himself the usual duties of a surgeon.

Strict attention to the sick, and their accommodation, was enjoined on the officers; care taken to separate those ill from the duty men, and a police officer daily appointed to scrutinize into the regularity of the camp, and the quality of the provision, and to report every defect, neglect, or impropriety.

Provisions of flour, or bread, and pork, were regularly supplied, and, after a little time, beef; and when these were bad, remonstrances, protests, and condemnation were resorted to; and, in one instance, a purchase of 100 barrels of flour was made by the General. Flour, in the Southern country, is apt to sour, and, at a certain season, it is difficult to get good.

On the 4th of July, a general review was made, and the troops fired and performed some evolutions tolerably well; after this, symptoms of mutiny were manifested, not by an assembling of men, but a secret preparing for such an event, and a threat, which was overheard by some of the more orderly men, reported. There appeared much dissatisfaction among many of the men, and some officers, proceeding, as I supposed, from the encampment. An expectation that this army would be discharged by the extra session of Congress, being disappointed, I presume, served to heighten discontent.

There being no regular established armory or armorers, some of the arms were useless for want of repair; these, together with those of the sick and dead men, were delivered to the brigade quartermaster, except some instances where the officers chose to pack them themselves, were packed in boxes, and either transported with the troops, or deposited in New Orleans.

The boats employed in conveying the troops and baggage up the river were four gunboats, carrying about forty men each, four keel boats, borrowed of the inhabitants of New Orleans, and

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nine out of eleven brought down from Fort Adams, and repaired by the troops; one quartermaster's boat, and one contractor's, attending the movement.

Previous to the embarkation, three companies, of the 6th infantry, under the command of Major Pike, were ordered to the garrison of Orleans, and between the 1st and 12th of September, the army embarked, and, making some delay nearly opposite the city, owing, I think, very probably, to a defect in one of the artillery boats, proceeded, on the 23d, up the river, under the command of Major Backus, of the light dragoons. I had been taken sick about the 5th of September, and was moved up to Orleans the 10th, and, recovering sufficient strength, followed the army, and reached the troops about fifty miles up the river, and, after two or three days, took command, the General being ill in Orleans. Every preparation for this movement was made, which the General could command, or thought sufficient, and yet the sufferings were such as would excite pity in the most callous heart. The men, unable to bear fatigue, had been left at Orleans; those able, were marched on the river bank, while the boats, with the weaker part, managed by able men, under the direction of officers, ascended from eight to fifteen miles a day, as the wind and current would permit, to the best ground to be found for the accommodation of a camp. Sickness and deaths increasing as we progressed, a consultation of the surgeons and officers was held: the surgeons declared it useless to administer medicine in the unsettled state of the troops, and the officers urging all reasonable haste to a place of rest, where the skill of the physician, and effect of the medicine, might have a fair trial. Under these impressions, two hospitals were established, one at Point Coupee, and one at Fort Adams, where the weakest of the men were left, under the care of surgeons, guards, and attendants, with medicines, and hospital stores, and provisions. The loss of men in the time of this movement, (from the 1st to the 12th September, to the 31st of October,) including the two hospitals, was near three hundred deaths, and some desertions.

As the boats arrived at Natchez, carriages were procured to move the sick and baggage to the intended cantonment, near the town of Washington, and now, the men a little rested from their late unexampled fatigue, began to clean their arms, rendered rusty from the unavoidable neglect of them while on the march, and the necessary tools being provided, the effective men, joined by those most able of the convalescents, under the superintendence of their officers, began to erect huts on the ground chosen by the General, a place healthy, elegant, and convenient to springs of fine water.

My knowledge of the country about Orleans is very limited, but I am of opinion the ground at Terre au Bœuf was as eligible for a camp as any in the vicinity of the city. Of the propriety of continuing in the vicinity of Orleans for defence, it does not become me to speak, not having the information which suggested the measure.

I doubt not the low situation of the ground about Orleans contributed to the mortality of the troops, but it is not improbable but the higher ground would have proved fatal too; for it is a remark, very generally received, that Northern constitutions undergo sickness, more or less, when subject to a fixed residence in a climate so Southern; and to this may be added, an almost universal acknowledgment, that the year 1809 was much more sickly than any for many years.

When I left the army at Washington, about the 27th of November, I thought the men were recovering in a good degree.

The clothing was delivered out to the officers commanding companies, on our arrival at Washington, and, in necessary cases, the men were supplied, but generally, I think, it was judged best to retain it till the dirty and fatiguing job of building was accomplished.

I conjectured, from some expressions in one of the General's letters to the Secretary of War, that an order for removing the camp had been given; but where to I did not understand.

WASHINGTON COUNTY, ss:

Be it remembered, that, on this 21st day of March, 1810, before the subscriber, a justice of the peace for said county, appeared William D. Beall, and made oath, in due form of law, that the above and foregoing facts, as stated, are just and true, to the best of his knowledge.

DANIEL RAPINE.

No. 3.

Deposition of Doctor Alexander Macauley, March 21, 1810.

In respect to the local situation of the camp at Terre au Bœuf, I believe it to be more healthy than the city of New Orleans, as I knew several officers and soldiers, who came from camp to town, get sick after being a short time in the latter. I have also been told by a respectable inhabitant of that neighborhood, that Terre au Bœuf was reported the most healthy country in the vicinity of New Orleans. In regard to the mortality of the troops, it may be observed, that new soldiers are apt to sicken, when first embodied, although in much healthier situations; that a large portion of the troops were sick before the army moved from New Orleans; that many of those who are enlisted are of debauched habits, and weakened constitutions, and that such constitutions are little able to resist the violent attacks of the diseases on the Lower Mississippi, where the most robust habits so frequently sink; also, that the mortality amongst the citizens was very great; and I have been informed by those who had resided in that country for ten years, that they had never before witnessed such a fatal season. The General had issued orders authorizing Doctors Spencer and Claude to make requisitions on the military agent for proper accommodations and necessaries for the sick, under which orders, the sick in the hospital in New Orleans, where I was, received such articles as could render them comfortable, and conduce to

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their recovery. I was stationed at New Orleans, and only visited the camp occasionally; but from what I have heard of the mortality at camp, I do believe that the army would have lost as many, if not more men, had they remained in New Orleans, and I thought the situation of the camp at Terre au Bœuf as good as I had ever seen in that country; and from what I have heard, I do not suppose a better could have been selected on the territory of the United States, within one hundred and fifty miles of New Orleans. As far as I have been able to observe the conduct of General Wilkinson, I have ever thought him actuated by a zeal for the welfare of the army, and promotion of the public service; and I have frequently witnessed his humanity and attention to sick officers, in having them removed to his own quarters until they were out of danger.

I certify that the foregoing statement is correct, according to the best of my knowledge and belief.
A. MACAULEY.

Deposition of Doctor Alexander Macauley, March 22, 1810.

In addition to my deposition of yesterday, I must state, that considerable supplies of medicines and hospital stores were purchased at New Orleans, from time to time, as well for the use of the sick in the city, as for those at camp at Terre au Bœuf; and never, to my knowledge, did any difficulty exist as to procuring them. Also, that a considerable supply of hospital stores and medicines arrived from the United States (I think) in the month of August, and that Doctors Spencer and Claude divided them: according to the best of my recollection, Doctor Claude took four-fifths for the use of the troops who ascended the river, and Doctor Spencer the other fifth, for the use of the troops at New Orleans, and in the general hospital at that place. The supply consisted of several large pipes and casks (or hogsheads) of wine, brandy, molasses, &c., and boxes, &c., of medicine. This division took place about the time of the removal of the troops from the camp below New Orleans, and the medicines, stores, &c., alluded to above, were embarked on board of the boats which ascended by or from New Orleans. The facts above are true, according to the best of my memory and belief.

A. MACAULEY.

WASHINGTON CITY, March 22d, 1810.

Sworn to before me, this 22d day of March, 1810.

W. THORNTON.

No. 4.

Deposition of Major Electus Backus, of the Army of the United States, taken by the committee appointed by the House of Representatives of the United States to inquire into the cause or causes of the great mortality in that detachment of the Army of the United States ordered for the defence of New Orleans.

I arrived in New Orleans about the tenth of May, 1809, at which place I found that General

Wilkinson, and most of the troops destined to that station, had arrived.

In the beginning of the month of June, the troops were ordered to leave New Orleans, and to proceed down the river to Terre au Bœuf, where they were directed to encamp. At this time the waters of the Mississippi were so high that at many places it was overflowing the levee, which rendered the ground of our encampment wet and muddy; and was so surrounded with marshes and swamps, as to render it an ineligible place for an encampment. The duty and labor required to put the place in order was too great to be endured in so hot a climate.

The lands on which the troops encamped belonged to Mr. Lasuse, to whom the Brigade Quartermaster informed me he had paid several hundred dollars, after the removal of the army, for the use of the lands, house rent, pasturage, and firewood; and that no allowance was made for any improvements made on the lands by the army, and that he had sold the buildings erected on the place for the benefit of the United States.

In the month of July, General Wilkinson became alarmed at some improper expressions dropping from some of the soldiers, which, on examination, appeared to have been uttered from a belief that the sickness and deaths the army had experienced was to be attributed to the local position of the camp, and to the unremitted fatigues and hardships they were compelled to endure.

The police of the camp was well attended to, and great exertions made use of to keep it clean, until the sickness of the soldiers became so general as to render it impracticable.

The provisions were such, in particular the flour, that medical men declared it sufficient to injure the health of, and destroy the soldier, independent of any other cause.

The soldiers were from four to six months without their pay, (which they are entitled to every two months.) This put it out of their power to purchase fowls or vegetables, which would have contributed much to their comfort, particularly when sickly. The reasons assigned for their not being paid were various; one of which was, that the paymaster of the district did not consider it his duty to go from New Orleans to pay the troops, and there being no paymasters to many of the regiments, payments could not be made; and one cause assigned by General Wilkinson was, that if the men were paid off before they ascended the river, many would desert.

The want of clothing was so great that many of the soldiers were almost naked; this was owing to the new clothing not arriving until a short time before the army moved up the river, and was not delivered to the company officers until after they had arrived at Washington, Mississippi Territory. Medicines and medical men some of the regiments were at times destitute of, in consequence of which many of the soldiers perished without having received but little, if any, medical assistance.

When the troops took the field in the month

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of June, they were well provided with tents, but the frequent rains to which they were exposed soon rendered them but a miserable shelter either against the effects of the rain or sun. A few of the most dangerous cases of the sick were at first put in tents pitched in the rear of their respective regiments, but before we left the encampment, the increase of sickness was so great that it was impossible (situated as we were) to separate the sick from the well, and they were to be found, more or less, in every tent in the line.

In consequence of the sickness and deaths of the soldiers, the arms and accoutrements belonging to them were much injured, and in some instances lost, owing to there being no place in which they could be sheltered from the weather.

Shelters were erected to cover the sentinels from the rays of the sun and frequent showers of rain, but were not completed until the month of August, prior to which time the soldiers suffered much for the want of them. About the first of September, orders were issued for the troops to prepare to embark on board of boats and other craft for Natchez, in the Mississippi Territory. The public boats were collected from different quarters and repaired, some of which, proving unfit for service, were turned in, and private boats taken, which the owners were glad of an opportunity of getting conveyed to Natchez free of charges, and others might have been obtained on the same terms. Nothing could have exceeded the joy expressed by the soldiers on this occasion: it seemed for a time to relieve the drooping spirits of those who were, to appearance, past all hopes of recovery.

At the time the troops commenced their march, General Wilkinson became so indisposed that he could not proceed with them, and remained at New Orleans. I being the only field officer with the troops, the command of them devolved upon me; in which command I continued until the army arrived nearly opposite West Florida. Between the 20th and 31st of October, the troops arrived at Natchez, leaving upwards of one hundred of their sick at Point Coupee, and many others at Fort Adams, at both of which places the greater part died. After the army arrived at their place of destination, the weather became cool, and those that were in a low state of health died, and the remainder became convalescent.

The troops were much relieved at this place by a plentiful market, both in fresh provisions and vegetables, which sold one hundred per cent. cheaper than in New Orleans, or its Territory.

The inhabitants of Washington and its vicinity received the army with much affection, and treated them with more attention and friendship than they had hitherto experienced on that Southern station. The complaints of the officers did not differ from that of the men, except the scurvy.

A supply of fresh provisions and vegetables were not to be procured in the neighborhood of the camp at Terre au Bœuf, or not short of the New Orleans market.

Question. Could boats have been procured at

New Orleans sufficient to convey the troops to Fort Adams or Natchez at any time between the 14th of June and the 10th of September?

Answer. I think they could.

Q. What was the quality of the provisions, particularly the flour, with which the Army were supplied during the encampment at Terre au Bœuf?

A. Bad, generally, particularly the flour, which was frequently sour, mouldy, in lumps, and sometimes full of bugs and worms.

Q. Was the Army in a sickly state at the time of removal from New Orleans to Terre au Bœuf, and were the sick removed?

A. There was some sickness. Those who were most ill were left in the hospital at New Orleans.

Q. Do you believe that at the time the troops were using the bad provisions a sufficient supply of good and wholesome provisions could have been procured at New Orleans?

A. I believe they could. The General did procure one hundred barrels of good flour for the Army.

Q. What proportion of the Army were generally ordered on fatigue duty?

A. One-half of those in health were generally on fatigue duty. Sometimes it was necessary to take men who were not in health to furnish the details of guard duty.

Q. At what time did the fatigue duty cease?

A. Not until the latter part of August.

Q. What kind of labor were the last fatigue parties engaged in?

A. Building guard-houses, shelters for the sentries, and clearing the ground.

Q. During how long a period were the men obliged to sleep on the ground?

A. Many of them from three to four weeks; during which time, there being no straw, they had but a single blanket and such palmetto leaves as they could collect to keep them from the damp ground, after which the tents were generally floored with boards from the boats which had conveyed the troops from New Orleans.

Q. At what time was it first known in the camp that orders had been received for the removal of the Army?

A. Sometime in the month of August.

Q. What other inconveniences besides those specified in the deposition were experienced in the encampment at Terre au Bœuf?

A. The troops experienced great annoyance from the innumerable quantity of mosquitoes, which were particularly afflicting to the sick. They suffered also very much from the continual rains.

Q. Were you not informed by the Paymaster that he had sufficient funds in his hands to pay off the men?

A. I was informed by Mr. Knight that he had the funds, and that, if the men would stop opposite New Orleans on their way up the river, he would pay them off.

Q. Did you not halt opposite New Orleans, and make application for that purpose?

A. The troops halted there three days, and I

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spoke to General Wilkinson on the subject: he replied that the men could not be paid, as, if they were paid off, they would desert.

Q. Was there an acting military agent at New Orleans at the time the troops were there on their way up the river?

A. I believe the Brigade Quartermaster did that duty.

Q. Were you provided with funds to defray incidental expenses in conveying the troops up to Natchez?

A. We were not. General Wilkinson directed me to take the Army up the river, informing me, at the same time, that there was not a dollar in the Quartermaster's Department to defray any extra expenses; that I must take them as they were. On our arrival at Point Coupee an hospital was formed, and about one hundred of the sick left there. There being no necessary supplies to leave with them, a subscription was made by the officers, and upwards of one hundred dollars raised and left with the surgeon, for the purpose of supplying the sick with those articles of which they stood in need, such as fowls, vegetables, &c.

Q. Did General Wilkinson consult any of his officers in selecting Terre au Bœuf as the place of encampment?

A. Colonel Smith and some other officers went down with General Wilkinson to see Terre au Bœuf, but I cannot say how far he consulted them.

Q. Was there dissatisfaction among the officers and men at Terre au Bœuf, and from what cause did it arise?

A. There was. It appeared to arise from the unhealthiness of the place, the sufferings of the troops, and the badness of the supplies. Many of the officers signed a petition in the month of July to the General, to remove the Army, which was withheld in consequence of his disapproving of it, and declaring he would not remove the troops until he received orders so to do.

Q. When you mention that the last fatigue parties were employed in clearing up the ground, in what manner were they so employed?

A. In smoothing the ground by taking up stumps, and filling up holes and ditches.

Q. What quantity of wood land was cleared by the troops?

A. I should judge that there were between twenty and thirty acres of new land cleared by them.

WASHINGTON COUNTY, ss.

On this 5th day of April, 1810, before the subscriber, a justice of the peace for said county, appeared Electus Backus, and made oath, in due form of law, that the facts stated in the foregoing instrument of writing, which came within his personal knowledge, are true, and those related from the information of others he believes to be true.

Sworn before me,

DANIEL RAPINE.

No. 5.

Examination of Captain George Peter, before the committee appointed "to inquire into the cause or causes of the mortality in that detachment of the Army ordered for the defence of New Orleans," taken April 9, 1810.

Question. At what time did you arrive at New Orleans.

Answer. I think it was between the 26th and 28th of March, 1809, that I arrived there with five companies.

Q. What was the condition of the Army during their stay in New Orleans, both as it respects their health and accommodations?

A. A part of the troops were quartered in the barracks, a part in the faubourg St. Mary, and a part in the city. The number of the sick increased daily during their stay, which I attributed to their intemperance, to the badness of their provisions, and to the want of discipline and subordination.

Q. What was the quality of the provisions with which the troops were supplied?

A. Of the most inferior kinds, of every description: the bread musty, the fresh beef so poor that it was not fit to be issued, and the pork rusty. I have frequently known the troops to throw the pork away. The complaints respecting the provisions were so frequent that I made a representation to General Wilkinson on the subject. He informed me that he would take measures to have better provisions provided; but during my stay I saw little or no improvement.

Q. What appeared to be the most prevalent diseases during the stay of the troops in New Orleans?

A. The dysentery, but not of a very malignant nature, and fevers. Of the corps of light artillery I believe only two men died during their stay in New Orleans.

Q. To what cause or causes did you attribute the want of discipline and subordination to which you have alluded?

A. To the dispersed situation of the troops in the city of New Orleans, and the impossibility of keeping them within proper bounds.

Q. Is it your opinion that, on the arrival of the troops and during their stay at New Orleans, such a disposition of them could have been made as would have been more favorable to discipline and subordination, and without incurring any additional expense?

A. I think a greater number of the troops might have been quartered in the barracks, and the remainder in the faubourg of St. Mary, which would have enabled the officers to have kept their men in better order, but would not have curtailed the expenses much: or, if the troops had been encamped on the plains of the faubourg St. Mary, with proper flooring to their tents, the officers would have had an opportunity of keeping up subordination and discipline, preventing intemperance, and would have saved to the Government a prodigious expense.

Q. Is it your opinion that the encampment of

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the troops, agreeably to your last suggestion, would have been equally, or more eligible, than their encampment at Terre au Bœuf?

A. I think it would have been more eligible. Drier ground might have been selected, having the swamp at a much greater distance; vegetables might have been procured in abundance, also milk and fresh provisions, with hospitals sufficiently commodious for the accommodation of the sick.

Q. What time did you leave New Orleans for Terre au Bœuf?

A. About the first of June an order directing a detachment of the troops consisting of three companies of light artillery, one of dragoons, one of riflemen, one of the third, one of the fifth, and one of the sixth infantry, under the command of Major Pike, was issued. Between the 3d and 5th of June, this detachment fell down to the head of the English Turn, for the purpose of preparing the ground for the accommodation of the corps of light artillery, the regiment of dragoons, regiment of riflemen, the third, fifth, sixth, and seventh regiments of infantry, consisting in the whole of about two thousand men.

Q. In what state did you find the ground intended for the encampment?

A. From the right to the centre the ground was as dry as it is generally below the city of New Orleans; but from the centre to the left it was swampy. The first part had been cleared, but the last was covered with willows and palmettoes.

Q. At what time did the main body arrive at the encampment?

A. Between the 9th and 11th of June.

Q. Was the ground prepared for their encampment when they arrived?

A. A part of the left was not cleared, and but little ditching done. A part of the officers and two or three companies of the men had flooring for their tents, the remainder were pitched upon the ground.

Q. What was the reason that a part of the men had flooring for their tents, and the remainder had not?

A. I recollect but two companies that were so provided, and the plank for those were procured at New Orleans by the officers, in part, at their own expense.

Q. At what time did you leave the camp at Terre au Bœuf?

A. On the morning of the 12th of June.

Q. How long did you serve in the Army of the United States?

A. I entered the Army in 1799, as a lieutenant of infantry; in 1801, was appointed a lieutenant in the second regiment of artillerists and engineers; in 1802, at the organization of the Peace Establishment, arranged to the corps of artillerists as a lieutenant; in 1807, promoted to a captaincy in the same corps; and in 1808, at the request of the Secretary of War, transferred to the regiment of light artillery. I resigned my commission on the 11th June, 1809.

Q. Where have you generally served during the time you have been in the Army?

A. On the seaboard; on the Northern lakes; on the Ohio, Missouri, and at New Orleans, in 1807 and 1809.

COUNTY OF WASHINGTON, to wit:

On the 11th day of April, 1810, Captain George Peter came before me, a justice of the peace for the county aforesaid, and made oath on the Holy Evangelists of Almighty God that the foregoing answers is a correct statement of facts, to the best of his knowledge and belief.

THOMAS CORCORAN.

No. 6.

Deposition of Captain John Darrington, of the United States Army, taken by the committee appointed by the House of Representatives of the United States, to inquire into the causes of the great mortality in that detachment of the Army of the United States ordered for the defence of New Orleans.

I joined the Army in New Orleans about the first of April, 1809, and was never absent from it until February, 1810. Soon after my arrival in New Orleans, I discovered that the number of our sick began rapidly to increase. The prevalent complaint appeared to be the diarrhœa; it attacked indiscriminately both officers and privates; at this time the deaths were but few in proportion to the number sick. The most dangerous among the sick were provided with hospitals, in which they were well attended to. This diarrhœa was ascribed by our physicians to medicinal effects of the waters of the Mississippi.

The last of May we were directed to prepare for leaving New Orleans. On the 3d of June a camp-forming party, consisting of the whole of the light artillery, and the strongest company of the remaining corps, was despatched for Terre au Bœuf. On the 10th of the same month the whole army followed, and on that and the succeeding day arrived at Terre au Bœuf; at this time I conjectured that about one-third of our army were on the sick reports. Although our camp-forming party had used every industry, the ground was not in readiness. The tents were pitched in front in the skirt of an old field. From the centre of our encampment to the right had originally been cleared, but was then mostly overgrown with small trees, weeds, &c.; the ground damp; from the centre to the left still remained in its primitive state, and having never been ditched was yet a marsh. Immediately in the rear was an impassable swamp. The left of the encampment was on the bank of the river, and partly parallel with it, but the river turning nearly at right angles threw the right at a considerable distance. To render this place suitable as soon as possible for the purpose intended, a fatigue of two hundred and twenty men was ordered; this party soon cleared off the trees on the line marked out. When the tents were permanently pitched, the General informed us that, after having employed several days in inspecting the country in the vicinity of New Orleans, he had selected this place as the most eligible for the encampment. Our fatigue party continued

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to clear the land at the distance of one hundred yards in the rear; after which they were employed in digging ditches in the intervals between the regiments, into which ditches were run drains leading from the front of the tents. This labor I conceived indispensable, from motives of self-defence; otherwise, during the rainy seasons a portion of our encampment would have been inundated. The severest duty performed by our fatigue was the digging of a canal in the rear, extending the whole length of the line, on the banks of which canal was thrown up a permanent levee. This labor, to the best of my recollection, was not commenced until the middle of July, and not finished until in August. Had it been the intention of Government (as General Wilkinson suggested as probable) to have made this place a permanent cantonment, the canal, together with its levee, would have been of utility as a safeguard against the ensuing season; but if, on the contrary, the place had been selected for a temporary purpose, I should say this labor was not necessary. The provisions were at no time such as could be esteemed good, and frequently so inferior that nothing but necessity could justify the use of them. On this subject frequent complaints were made to General Wilkinson. At first he attended to them; the provisions were inspected and condemned; it was also said he purchased a hundred barrels of flour; the evil, however, still continued; complaints were again made, but without producing any effect; the General replying, that better provisions could not be had; after this, further complaints were deemed useless. The constant use of damaged provisions was, no doubt, the primitive cause of that horrid and destructive disease termed the scurvy. Our market furnished but a scanty supply of either fresh provisions or vegetables, which sold from a hundred to a hundred and fifty per cent. higher than at our present cantonment, (Washington, Mississippi Territory.) Besides, the men did not derive as much advantage from this scanty and exorbitant market as they might, had they been regularly paid.

Our details were so arranged that one third of the Army were on duty each day. This arrangement continuing, without a diminution in proportion to the increase of sickness, soon brought those reported for duty, on duty every other day, and it not unfrequently happened, that, to supply the details, sick men were furnished. For the first month most of the tents were without floors; and as the Army was not furnished with straw, the bedding of the soldiers consisted in a single blanket. In this situation they were obliged to sleep on the ground, which, during the month of June and the greater part of July, was constantly damp, and in places for a short time inundated by water. If I recollect accurately, from the middle of June to the last of July, there were but few days without rain, and generally several showers in the same day; during this period and for some time after, the sentinels were unprovided with any description of shelter to protect them either against the rain or sun. The sentinels

in the rear of the encampment, until the middle of July, were over their shoes in mud and water, and the fatigue party employed in the same place, in digging the canal, constantly worked in mud and water.

On our first arrival at Terre au Bœuf, General Wilkinson gave directions for the erection of a hospital; but, from what cause I am not able to say, the work progressed slowly, and was not finished until a short time before our movement, and when finished was not capable of holding more than sixty or eighty men. We were generally without hospital stores, and when we had them they were in such small quantities as to be of little service. The number of our sick was so great, that it became impossible for the few physicians we had to attend to them, and it sometimes occurred, that men died without ever having received any description of medical assistance. The physicians complained much of the want of medicines, and also, that from the exposed situation of their patients, the medicines administered frequently proved injurious. The sick and the well lived in the same tents; they generally subsisted on the same provisions; were equally exposed to the constant and incessant torrents of rain, to the scorching heat of the sun, and during the night to the attacks of numberless mosquitoes. They manifested the pains and sufferings they experienced by shrieks and groans, which, during the silence of the night, were distinctly to be heard from one end of the line to the other. It is my candid belief the mosquitoes produced more misery than any other cause. In the night the air was filled with them, and not a man was provided with anything like a bar or net. Thus situated, the sufferings of the unfortunate sick, who were too weak to defend themselves, can perhaps be better imagined than described.

Between the 5th and 10th of July, the officers, impelled by motives of humanity, from the lamentable and distressing situation of the camp, petitioned the General for its removal. I was the bearer of the petition. I met with him on the parade and informed him of my business. At first he appeared to be much astonished; observed that a removal was impossible; that there he had been sent, and there he should remain until ordered away by competent authority. He afterwards made use of a few harsh expressions, such as that the officers were crazy, &c. I did not put into his hands the petition, because I perceived it would have no effect. I then returned, and reported the result. After this all prospect of a removal ceased. In the latter end of July it was rumored that orders had been received from the Secretary of War for our removal, and in the latter end of August these orders were made public. On this occasion the troops manifested the greatest joy; they seemed to have forgotten all that was passed, and became impatient for the arrival of the day on which they were to leave Terre au Bœuf. The first of September, orders were issued to prepare for ascending the river, and between the seventh and eighteenth commenced their ascent by detachments.

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On the 20th the Army was concentrated opposite New Orleans. Here a halt of two days ensued, to repair the boats. A few of the boats were found unfit for the voyage; but their places were immediately supplied by others belonging to citizens, who, it was said, charged nothing, being glad of an opportunity of getting them to Natchez. On the 23d, after sending a few of our sick to New Orleans, a general movement took place; many more of the sick could have been sent, but we were informed the hospitals could not contain them. The men were crowded in such numbers in the boats, as to preclude everything like comfort. In many of the boats were two and three companies. This was an evil which could not be remedied: for, had our boats been multiplied, I do not think we should have been able to manage them. In the boat in which I ascended, were three companies, and it was with difficulty I could ever get more than twelve or fifteen men at the oars. For the first few days after we commenced our ascent, the number of deaths were not more than usual. Afterwards they began to increase, and before we arrived at Point Coupee, it became a first duty at our nightly encampments to bury those who had died during the day, and in the morning to bury those who had died during the night. This last rite consisted in wrapping them in their blankets and covering them with two or three feet of earth. On the 3d of October, we arrived at Point Coupee. At this place the establishment of a hospital was deemed indispensable; there being no public funds, the hospital was erected by the voluntary donations of the officers. At this place upwards of a hundred men were left. On the 17th, the Army reached Fort Adams; here another hospital was established. The last of October they arrived at Natchez, and were immediately removed to their intended encampment. As no arrangement had been made for the procuring of a hospital, the situation of the sick still continued to be miserable; they were crowded together in tents, and lay on the bare ground, exposed to the rain and cold. A small quantity of straw was procured, but not sufficient for the twentieth part. In this situation numbers died daily. The last of November a few of the most dangerous were sent to Washington, where houses had been rented as hospitals. About the middle of December deaths began to decrease, as the greater part of those, who, on their arrival, were much reduced, had died, and the others had become convalescent. On the 18th of December, General Wilkinson was relieved by General Hampton, who adopted the most prompt measures to render the situation of the Army as desirable as possible. The police of the camp, which before had been neglected, and for the want of which the camp had become extremely offensive, was immediately attended to; measures were also taken for the erection of a large and commodious hospital, and also for the payment of the troops. He advanced from his own pocket one month's pay. The troops had from four to six months' due them. Why payment had thus been delayed I cannot say. Had the men been paid on their ar-

rival, it certainly would have been of immense advantage, as the country furnished ample supplies of vegetables and fresh provisions, which sold on reasonable terms. By returns received from the hospitals established on our ascent, it appears that most of the sick left in them died. Another cause of suffering, which I before omitted to mention, was the want of clothing; this was because the new clothing did not arrive till late in August, and was not delivered to the company officers until after their arrival at Washington. It will not perhaps be improper to state, that when we were opposite New Orleans, a paper was presented by a friend of General Wilkinson for the signatures of the officers. From my own impressions at that time, and I believe the impressions of others were similar to my own, I did not hesitate to sign it; the purport of this paper was the approving of the General's conduct. The General was the first military officer in the United States, of long standing, and of course carried with him the confidence of the Government. Besides, he had impressed on our minds a belief, that the misfortunes we had experienced were alone attributable to Government; that he had ever acted in conformity to orders. We could not doubt the words of our General. Many signed it.

JOHN DARRINGTON,
Captain, 3d Infantry.

Interrogatories put to Captain John Darrington, by the Committee, with his answers.

Question. Could boats have been procured at New Orleans sufficient to convey the troops to Fort Adams or Natchez, at any time between the 14th of June and 10th of September?

Answer. I suppose that boats could have been had. There are many boats employed in the river, and I think they might have been procured on reasonable terms.

Q. What was the quality of the provisions, particularly the flour, with which the Army were supplied during the encampment at Terre au Boeuf?

A. The flour was always bad, with the exception of one hundred barrels purchased by General Wilkinson. It was generally mouldy, sour, and frequently filled with bugs and worms. A small proportion of the pork was good, and also a small proportion of the fresh beef.

Q. Do you believe that, at the time the troops were using the bad provisions, a sufficient supply of good and wholesome provisions could have been procured at New Orleans?

A. I suppose it might.

Q. At what time did the fatigue duty cease?

A. The records of the Army show it ceased on the 7th of September.

Q. Had you reason to believe there were funds in the hands of the paymaster at New Orleans, sufficient for paying off the troops?

A. Yes. I had command of the third regiment, and issued an order to the paymaster of that regiment, to meet us when we should arrive opposite New Orleans, and pay off the men, which he complied with.

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Q. Were you provided with funds to defray incidental expenses in conveying the troops up to Natchez?

A. We were not. The expenses incurred whilst I had command of the Army, I was obliged to defray from my own pocket.

Q. What quantity of woodland was cleared by the troops?

A. I suppose about thirty acres.

Q. Do you not suppose the value of the land was enhanced by the labor done on it by the troops?

A. Yes. The cleared land was prepared for cultivation, and the uncleared land in the vicinity was drained by the canal and ditches in the rear of the camp.

Q. How many men did you lose out of your company during your encampment at Terre au Bœuf?

A. None.

Q. Were your men encamped on more favorable ground than the other part of the Army generally?

A. They were not; my company occupied its proper place in the line.

Q. How many of your men were generally fit for duty while at Terre au Bœuf?

A. The number of those in my company fit for duty seldom exceeded five.

Q. How many of the men died on board of your boat, while ascending the river?

A. Of the three companies on board my boat, I think about one third died, including those left in the hospitals established on our way up.

Q. Did you receive the necessary clothing for your company?

A. The clothing for my company arrived at Camden, in South Carolina, during my absence. I receipted for it at Charleston, but being ordered for New Orleans, and not being able to get it from Camden in time, I was obliged to sail for New Orleans, leaving it behind. After my arrival at New Orleans, I wrote to the assistant military agent at Charleston, stating the situation of my company, and requesting him to forward on my clothing. He sent one cask, which I received in the month of July.

Q. Was the General attentive to the sick at Terre au Bœuf?

A. He was particularly attentive to my company; with respect to the remainder of the Army, I cannot say.

Q. Was your company provided with quarters on their arrival at New Orleans?

A. They were not. On my arrival, I reported myself to the commanding officer; he referred me to the military agent for quarters. I went in search of the agent, but could not find him. I sent my ensign in search of him; he informed me that he had found the agent, who directed him to look out for quarters wherever they could be procured, and he would pay for them. The ensign accordingly found quarters, and the troops were removed from the transport after a detention on board for two or three days.

Q. From the state of the Army at Terre au

Bœuf on the 20th of July, if preparations had immediately commenced for a removal, how soon do you believe a movement of the Army up the river might have commenced?

A. I am of opinion, that, if proper measures had been immediately adopted, a movement might have been made in five or six days.

Q. What were the arrangements ultimately adopted?

A. I think the public boats arrived from Fort Adams early in August. They were at first ordered to be repaired by general detail, but the repairs went on slowly: about the last of August, or the beginning of September, they were divided among the commanding officers of corps, who undertook to finish their repairs, which were soon completed. I reported myself ready for moving in two days after receiving my boats.

WASHINGTON COUNTY, ss.

On this 11th day of April, 1810, appeared before the subscriber, a justice of the peace for said county, Captain John Darrington, and made oath, in due form of law, that the foregoing depositions and answers to the interrogatories, are just and accurate, to the best of his knowledge and belief.

DANIEL RAPINE.

No. 7.

Deposition of Colonel Alexander Parker, taken by the Committee appointed by the House of Representatives of the United States, to inquire into the cause or causes of the great mortality in that detachment of the Army of the United States ordered for the defence of New Orleans.

January 30, 1809, I received orders from General Wilkinson, to sail from Norfolk to New Orleans, and report myself, or take command, as the rank of the officer I found there would justify.

On the third of February, did sail with two transport ships, with about 300 troops on board; arrived and took command at New Orleans, on the 26th of March; the troops generally in good health. The General did not arrive until the 20th of April, the command, of course, then devolved on him.

A general order was issued, on the 31st of May, for the brigade quartermaster to have 50 axes, 50 spades, 50 picks, 50 mattocks, 50 hatchets, 6 brier scythes, 4 mauls, 4 pair of iron wedges, 12 hand-barrows, and the same quantity of rakes, ready for service on Friday morning.

On the first June, shallops were ordered to be in readiness to remove a detachment from the Army, consisting of 500 men, under the command of Major Pike, with fifteen days' provisions, and all the tools mentioned in the foregoing orders, to prepare an encampment at Terre au Bœuf for the reception of the Army, as a general movement would take place in the course of a week. Accordingly on the 9th the troops did embark, and proceeded down the river about twelve miles to this new encampment. On the 11th a general order was issued at Terre au Bœuf for a fatigue party to be daily furnished, consisting of one field officer, two captains, four subalterns, eight ser-

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geants, eight corporals, and two hundred privates. The 5th July I left the encampment at Terre au Bœuf to return to the City of Washington, at which time I think there were 600 soldiers returned on the sick list; reference to the Inspector's return will ascertain the exact number. The causes of such numbers being sick I attribute to the following reasons: 1. The impurity of the waters of the Mississippi, which the soldiers were obliged to use without being filtered; 2. The camp being mostly inundated by heavy rains and waters from the Mississippi; 3. The great fatigue the soldiers underwent in reclaiming that encampment, and lying on the wet ground—they not being furnished with a sufficiency either of straw or boards; 4. The provisions that were issued by the Commissary were generally damaged and unfit for use; 5. The great scarcity of vegetables, so conducive to the health and comfort of soldiers in that warm climate.

A. PARKER.

Interrogatories put to Colonel Alexander Parker, by the Committee appointed to inquire into the cause or causes of the mortality in that detachment of the Army ordered for the defence of New Orleans, with his answers.

Question. What rank did you hold in the Army at New Orleans?

Answer. I commanded the Army from the time of my arrival until the arrival of General Wilkinson; from which time, until I left the Army at Terre au Bœuf, I was second in command.

Q. What was the condition of the Army during their stay at New Orleans, both as it respects their health and accommodations?

A. The troops generally arrived there in good health, but sickness soon commenced, and rapidly increased among them. Their accommodations, as to barracks and quarters, were comfortable; the provisions—flour, pork, and beef—were generally bad—of the meanest kind, and unfit for use.

Q. Was there a sufficiency of sound and wholesome provisions in New Orleans, which might have been procured for the support of the troops?

A. There was generally a supply in the market of good and wholesome provisions, particularly flour and pork.

Q. Did the market of New Orleans furnish an abundance of fresh provisions and vegetables?

A. The fresh provisions were generally poor, the vegetables were abundant.

Q. Did you examine the site of encampment at Terre au Bœuf before the troops removed there?

A. I had passed by the place in going up the river, but never examined with a view to an encampment.

Q. Were you or any other of the officers, within your knowledge, ever consulted as to the propriety of fixing on Terre au Bœuf as the place of encampment?

A. I was not, nor do I believe that any of the officers were.

Q. Did you consider Terre au Bœuf as an eligible position for an encampment, with a view to

the defence of New Orleans, if the position had been a healthy one?

A. The position is not a military one, but it is as much so as any other in that low country.

Q. Do you believe a healthy situation might have been selected in the high lands, and which would have been equally or more advantageous with a view to the defence of New Orleans?

A. I believe the situation of the present encampment at Washington may be considered, as a military position, in every point of view, more eligible and better calculated for the defence of New Orleans than Terre au Bœuf, or any other in that country, within the jurisdiction of the United States. I have many reasons for thinking so, among which the following may be considered as the principal: an invading army landing on the Mobile and taking possession of the heights of the Mississippi could easily cut off all supplies from New Orleans, and, with a small naval force at the mouth of the Mississippi, would block up the low country so completely as to render it wholly impossible for an army to subsist there. The health of the troops would be much better preserved, and they could at any time move down the river in three days with great facility in case of necessity.

Q. Do you recollect whether any opinions were expressed among the officers, previous to the removal at Terre au Bœuf, relative to the superior advantages of the upper country over that position, and whether those opinions were communicated to the General?

A. The officers frequently conversed among themselves on that subject, but I do not know that they communicated their opinions to the General. I pointed out the advantages which I conceived the upper country possessed to the General. He replied that he was fully apprized of the situation, but that he was limited in his orders, and could not leave New Orleans uncovered.

Q. Do you recollect whether any opinions were expressed among the officers, while at Terre au Bœuf, in favor of the removal of the troops up the river, and whether those opinions were communicated to the General, and at what time?

A. They were daily expressing such a wish to me, and often desired me to communicate their wishes to the General, and press him for a removal. I did mention to the General, about the last of June or the first of July, the necessity of removing the troops from that encampment to the upper country. His reply was nearly similar to the one he gave me before—that he was restricted in his powers, and could not leave New Orleans uncovered.

Q. When you left the encampment, were the troops regularly paid up?

A. According to the best of my recollection, there was not more than two months' pay due the troops generally when I left there.

R. Do you know whether the Paymaster at New Orleans had funds in his hands for the payment of the troops?

A. He informed me, some time in the month of June, that he had received a draft, and had funds in his hands. He had been in a very low

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state of health for some time, and remained so when I left there, which disabled him from transacting any kind of business.

Q. Do you not think the fatigue parties were too large in proportion to the strength of the Army, and that the excessive fatigue thereby imposed on the troops contributed very much to increase the sickness and deaths?

A. It is my opinion that the details for fatigue and camp duty were much too great for the well part of the troops to perform, and that it was one great cause of the mortality.

Q. Were the ditches and other improvements made in the camp absolutely necessary for the accommodation of the troops?

A. They were certainly of great service in draining the ground, and making it more dry and comfortable.

Q. Do you think the work done by the troops rendered the land more valuable to the proprietor?

A. There can be no doubt but its value was improved by draining and clearing it.

Q. In what state did you find the ground intended for the encampment?

A. The ground on which the right wing of the Army was encamped had once been cleared, but was covered with brambles and underwood. On the left it was a perfect bog, and uncleared.

Q. Was there time sufficient for the camp-forming party, under Major Pike, to have completed the preparations for encampment previous to the removal of the main body to Terre au Bœuf?

A. I think there was not. He moved with his party on the first June, and the main body moved on the ninth. It would have taken the party under his command a month or six weeks to put the ground in any tolerable order.

Q. Was not the place chosen for encampment much infested with mosquitoes, &c.

A. It was. The mosquitoes, gnats, and reptiles, were so numerous as to be very distressing to the men, and were a great aggravation of their other sufferings.

Q. Were the troops supplied with the necessary hospital stores?

A. They were not; and the troops suffered much in consequence of the want of them. Many of the men died without having received any aid from hospital stores.

Q. Was it not within the power of the General to order the military agent to furnish the necessary hospital stores and other supplies for the use of the troops?

A. The General may at all times draw on the military agent for any quantity of stores that may be found necessary for the use of the troops.

Q. Do you know whether the military agent had funds in his hands to meet such drafts?

A. About the last of April he had considerable funds in his hands. I cannot say what his disbursements were after that period.

Q. What were the most prevalent diseases in the Army while you were there?

A. Dysenteries and diarrhœa. These disorders were increased by the dampness of the ground on which the troops were encamped.

Q. Were the waters of the Mississippi considered as wholesome?

A. When filtered the water is considered as wholesome; but, in the state in which the men were obliged to use it, it was considered by medical men as very unwholesome.

Q. Could not the men have been supplied with a sufficient quantity of filtered water?

A. A sufficient quantity of filtering stones could not have been had, but a good substitute might have been found in sand or charcoal.

Q. Were the sentries provided with the necessary shelters to preserve them from the effects of the sun, rain, and dews?

A. They were not, during my stay there. There were sentinels who fell on their posts from the effects of the sun, or other cause, and expired very suddenly.

Q. Is it your opinion that a sufficient number of boats could at any time have been procured at New Orleans for the purpose of conveying the troops up the river?

A. At all times a number of boats might have been procured, but whether in sufficient numbers to have removed all the troops at once, I am not able to say.

Q. Is it your opinion that the troops might have been encamped on the plains of the Faubourg St. Mary, and that, if they had been so encamped, their situation would have been more eligible than it was at Terre au Bœuf?

A. I am under the impression that the ground would not have been sufficiently extensive for an encampment. If it would, it possessed many advantages, such as its being drier, and the facility of procuring vegetables and other necessary supplies; but I am under the impression, that, from its vicinity to the town, it would have been impossible to have restrained the men, and prevented them from entering into all the vices common in large towns.

Q. Was the police of the camp such as to keep it sufficiently clean?

A. The police officers were sufficiently strict, but the low situation of the ground caused a frequent overflowing of the sinks, and produced a very great stench, which was extremely offensive throughout the camp.

Q. In the state in which the Army was, at Terre au Bœuf, do you believe it could have made any serious opposition against even a small invading force?

A. It is my opinion that our troops were so emaciated and reduced by sickness, the climate, and the want of proper nourishment, that they could have made but a very feeble opposition against even a small military in good health and well organized.

Q. Were the mosquito bars or nets necessary for the troops, particularly for the sick, and were they provided?

A. Nets were absolutely necessary for the accommodation of the Army. When I left that country a few nets were provided for the sick at the New Orleans Hospital. I was informed by the military agent, that he either had in hand ten

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thousand dollars for the purpose of purchasing mosquito nets, or that he was ordered by the Secretary of War to provide for the Army at New Orleans, to the amount of ten thousand dollars.

Q. What was the price of mosquito nets?

A. Good nets for the soldiers might have been purchased for two dollars and fifty cents.

Q. Did any cause or causes exist, within your knowledge, to impose an imperious duty on the commander to encamp in the vicinity of New Orleans?

A. None within my knowledge.

Q. Were there any symptoms of discontent manifested at New Orleans, which could require the detention of the Army at Terre au Bœuf?

A. The citizens of New Orleans were peaceable, and appeared to be well disposed to the Government. I heard of no dissatisfaction, nor murmurs of any kind.

Q. Did any reasonable apprehension exist, from the influx of refugees from Cuba, that could require the presence of an Army?

A. No apprehensions were entertained that I heard of. I had none.

Q. Admitting that symptoms of discontent had been manifested, would not an encampment of the Army in the high lands have given to the Government the surest and most certain means of overthrowing anything like opposition?

A. I am decidedly of opinion, that, as a military position, the high lands, in every point of view, may be considered as the most eligible for the protection and defence of New Orleans, and that the encampment of the Army in the higher country would afford the most certain means of quelling anything like opposition to the Government.

Q. Were you informed that an order had been given by the Secretary of War, on the 30th of April, 1809, for the removal of the troops to the rear of Fort Adams, or Natchez?

A. I heard of no such order, nor was information of such an order communicated to the Army.

Q. Is it not customary for the commanding officer of an army to consult his officers of highest rank upon matters of importance, respecting the disposition of the army under his command?

A. It is.

On this 14th day of April, 1810, appeared before the subscriber, a justice of the peace of Washington county, Colonel Alexander Parker, and made oath, in due form of law, that the foregoing deposition, and answers to interrogatories, are just and accurate, to the best of his knowledge and belief. Sworn before DAN. RAPINE.

No. 8.

Interrogatories put to Captain E. Williams, by the Committee appointed to inquire into the cause or causes of the great mortality in that detachment of the Army ordered for the defence of New Orleans, with his answers.

Question. What rank did you hold in the Army at New Orleans?

Answer. I held the rank of captain, and acted

as an aid-de-camp to General Wilkinson, from the 16th January, 1809, to the 30th June following. I arrived at New Orleans on the 19th April, 1809.

Q. What was the condition of the Army during their stay at New Orleans, both as it respected their health and accommodations?

A. The accommodations were good and comfortable. Soon after the arrival of the troops, they were afflicted with diarrhœa, supposed to be owing to the medicinal properties of the water of the Mississippi. The water generally produces such effects on strangers. The sickness increased during the continuance of the troops at New Orleans.

Q. Was there a sufficiency of sound and wholesome provisions at New Orleans, which might have been procured for the support of the troops?

A. No doubt but that a sufficiency of sound and wholesome provisions might have been purchased there at any time.

Q. What was the quality of the provisions furnished the army?

A. Whilst at New Orleans I was uninformed of anything relating to this question, as I then acted as an aid-de-camp to the commander of the Army. When I took my station in the line, I had frequent occasion to complain of the provisions; they were often unfit for use; our complaints were known to the General. In some instances the provisions were condemned, and others purchased by order of the General. One hundred barrels of flour were purchased by the General.

Q. Do you believe a healthy situation might have been selected in the high lands, and which would have been equally, or more advantageous with a view to the defence of New Orleans?

A. A more healthy situation might have been selected in the high lands, but not so eligible for the defence of New Orleans.

Q. Are you well acquainted with the country above New Orleans, and the positions best calculated for military sites?

A. I am not.

Q. Do you recollect whether any opinions were expressed among the officers, while at Terre au Bœuf, in favor of the removal of the troops up the river, and whether those opinions were communicated to the General, and at what time?

A. The officers frequently expressed opinions in favor of a removal to the high country. Their opinions were known to the General.

Q. Were the troops regularly paid?

A. They were not regularly paid. When I left the detachment at Washington, Mississippi Territory, on the 27th of November, the regiment to which I was attached had arrears due for five months.

Q. Do you think the fatigue parties were too large, in proportion to the strength of the Army, and that the excessive fatigue thereby imposed on the troops contributed very much to increase the sickness and deaths?

A. I do think they were.

Q. Were the ditches, and other improvements

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made in the camp, absolutely necessary for the accommodation of the troops?

A. Ditches were absolutely necessary for the comfort of the troops; the ditches made were unnecessarily large for a temporary cantonment.

Q. Do you think that the work done by the troops rendered the land more valuable to the proprietor?

A. I do; inasmuch as it rendered a portion of the land on which we encamped fit for cultivation, which land, previous to our encampment, was, in its primitive state, wet and marshy.

Q. In what state did you find the ground intended for encampment?

A. Part of it had been cultivated, but was overgrown with weeds and brush; the remainder was in its primitive state—low, wet, and marshy, which, when ditched and cleared, became dry.

Q. Was there time sufficient for the camp-forming party, under Major Pike, to have completed the preparations for encampment, previous to the removal of the main body to Terre au Bœuf?

A. I do not think the time was sufficient. When the main body of the Army arrived, more than half of the work was to be done.

Q. Was not this place chosen for encampment much infested with mosquitoes, &c.

A. Yes, it was; but not more so than that country generally is.

Q. Were the troops supplied with the necessary hospital stores?

A. The troops were, in my opinion, at no time sufficiently supplied with hospital stores.

Q. What were the most prevalent diseases in the Army while you were there?

A. Dysenteries, bilious fevers, agues and fevers, and the scurvy,

Q. Could not the men have been supplied with a sufficient quantity of filtered water?

A. The men could have been supplied with a sufficient quantity of filtered water; the means of filtering it being in abundance.

Q. Were the sentries provided with the necessary shelters to preserve them from the effects of the sun, rain, and dews?

A. The sentries were at no time properly protected from the weather; about the middle of July, sheds were erected, but they afforded little protection.

Q. Is it your opinion that a sufficient number of boats could have been procured, at any time, at New Orleans for the purpose of conveying the troops up the river?

A. Comfortable boats could have been procured, at any time, at New Orleans for the conveyance of the troops.

Q. Is it your opinion that the troops might have been encamped on the plains of the Faubourg St. Mary, and that, if they had been so encamped, their situation would have been more eligible than it was at Terre au Bœuf?

A. I do not think they could have been encamped there so advantageously as at Terre au Bœuf, the vicinity to New Orleans tempting the men to dissipation and other vices.

Q. Was the police of the camp such as to keep it sufficiently clean?

A. The detail for police was sufficient, and the camp kept as clean as the nature of the ground would admit; the frequent rains causing the sinks to overflow contributed to the diseases of the camp.

Q. In the state in which the Army was at Terre au Bœuf, do you believe it could have made any serious opposition against a small invading force?

A. The extreme disease of our camp would have made it impossible for us efficiently to oppose even a small force.

Q. Were mosquito bars or nets necessary for the troops, particularly the sick, and were they provided?

I consider mosquito bars absolutely necessary for both the sick and the well. A few were supplied, at a late season, for the sick.

Q. Did any cause or causes exist, within your knowledge, to impose an imperious duty on the commander to encamp in the vicinity of New Orleans?

A. I do not know any cause why the troops were kept in the vicinity of New Orleans. The idea generally prevailed among the officers that it was in conformity to the wishes of the Government.

Q. Were there any symptoms of discontent manifested at New Orleans which would require the detention of the Army at Terre au Bœuf?

A. I know of none that could require the detention of the whole detachment. In my opinion it was politic to leave a small portion of the Army there, as the influx of people from Cuba excited disquiet in the town.

Q. Were you informed that an order had been given by the Secretary of War, on the 30th of April 1809, for the removal of the troops to the rear of Fort Adams, or Natchez?

A. I knew of no order for the removal of the troops until about the 20th of August, 1809.

In addition to the interrogatories put by the committee, it may be proper to add, that, on or about the 1st of September, the troops were ordered by General James Wilkinson to prepare for a removal to the high lands up the river Mississippi. The troops left Terre au Bœuf by detachments, between the 8th and 18th of September. On the 20th they were concentrated opposite New Orleans; many of the boats furnished for our conveyance were found to be in a leaky condition, some few totally unfit for service. On the 23d we halted about a mile above the city to repair, and in order to remove such of the sick to the hospital at New Orleans as were too ill to be moved. Many were forced to proceed from a want of room in the hospital, and who might have been recovered could they have had rest and comfortable lodgings. At no time was there a sufficiency of hospital stores during our route. Our surgeons often complained of a want of the proper medicines, and such as they had frequently proved inefficacious, as the sick were necessarily exposed to the heat of the sun, and the heavy

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dews at night, together with every variety of weather. Straw not being furnished, as expressly ordered by the War Department, the sick and the well lay on the ground with a single blanket. The sufferings of the men may be better imagined than related. The number of sick continued to increase; deaths became more numerous. At Point Coupee it was judged necessary to establish an hospital, in which were left the most dangerous of our sick, (who, for their necessities and comforts, were dependent on the charity of the officers, as the detachments were without public funds,) in number about one hundred. At Fort Adams a similar step was found necessary. As the diseases of the climate affected all, we were often deprived of the services of our surgeons, and men were known to die without the smallest medical assistance. The troops arrived at Natchez about the first of November, and were immediately removed to Washington, where the change of air was soon observed to have a happy effect on the health of the men. General Wilkinson was generally attentive to the sick, particularly to my company.

WM. E. WILLIAMS,

Captain 5th Regiment Infantry.

DISTRICT OF COLUMBIA,

City of Washington, April 10, 1810.

Captain William E. Williams made oath before me that the foregoing statement, in answer to the queries put to him, is true, and so far as he states it to have been derived from the information of others, he believes it to be true.

DANIEL RAPINE.

No. 9.

Interrogatories put to Lieutenant Enos Cutler, by the Committee appointed to inquire into the cause or causes of the great mortality in that detachment of the Army appointed for the defence of New Orleans, with his answers.

Question. What rank did you hold in the Army?

Answer. First lieutenant in the seventh regiment of infantry.

Q. How long have you been in the Army?

A. I have been in service since the third of May, 1808.

Q. At what time did you arrive at New Orleans?

A. I arrived there on the last day of March, 1809.

Q. What was the condition of the Army during their stay at New Orleans, both as it respects their health and accommodations?

A. After we arrived at New Orleans the dysentery soon became very prevalent among the troops. The accommodations were good. The company under my command (the captain being sick and absent) arrived in good health, but soon became sickly, and six or seven men died before we removed to Terre au Boeuf.

Q. What was the quality of the provisions with which the troops were supplied while at New Orleans?

A. Our meat was good; the flour sometimes good, and sometimes bad.

Q. Was there a sufficiency of sound and wholesome provisions in New Orleans, which might have been procured for the support of the troops?

A. I knew very little respecting the state of the provisions in the market at New Orleans, but I do not think that a supply of good flour could at all times have been had.

Q. Did the market of New Orleans furnish a sufficient supply of fresh provisions and vegetables?

A. It furnished, I believe, at all times, a sufficient supply of vegetables, but whether a sufficiency of fresh provisions could at all times have been had, I cannot say.

Q. At what time did you remove from New Orleans to Terre au Boeuf?

A. It was on the third day of June. I went with the first detachment, under the command of Major Pike.

Q. In what condition did you find the ground allotted for the encampment?

A. The ground on the right was dry and covered with weeds; towards the left it was lower, and somewhat wet, and covered with brush, blackberry bushes, &c. The party under Major Pike encamped on the right, and, when the other troops came down, the line was extended to the left.

Q. At what time did the main body of the troops arrive at Terre au Boeuf, and was the encampment prepared for their reception?

A. I believe it was eight or ten days after our arrival. The ground was as well prepared as the time would admit.

Q. How long after their arrival was it before the troops were provided with flooring in their tents?

A. They were provided immediately after the arrival of the main body; the boats in which they descended were broken up for that purpose.

Q. Was the place at which the troops were encamped much infested by mosquitoes?

A. It was, like the rest of that country, very much infested by them.

Q. Were the troops supplied with the necessary hospital stores and medicines?

A. I heard no complaint for the want of medicine, but there was a want of hospital stores.

Q. Do you not suppose the fatigue parties were too large in proportion to the strength of the Army, and that the fatigue thereby imposed on the troops tended to increase the sickness and deaths?

A. On our first arrival the fatigue parties were large; they were afterwards reduced. I do not know that the sickness or deaths were increased by the fatigue.

Q. At what time were the fatigue parties reduced?

A. I cannot remember.

Q. Were the sentries provided with the necessary shelter to protect them from the sun, rain, and dews?

A. Yes, they were provided with shelters covered with palmettoes, sufficiently tight to protect them from common rains.

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Q. At what time were they so provided?

A. I think it was probably towards the last of July, but I am not certain as to the time.

Q. What was the quality of the provisions with which the troops were supplied while encamped at Terre au Bœuf?

A. Our meat was generally fresh, and generally good; our flour sometimes bad. A purchase of flour was once made by order of the General, in consequence of the failure of the contractor to supply the troops.

Q. Was the police of the camp such as to keep it sufficiently clean?

A. Great attention was paid to the police of the camp by the officers, but the troops being new, the camp did not preserve that clean appearance which a camp of old soldiers probably would.

Q. Were the ditches which were made by the Army necessary for the accommodation of the troops? A. I conceived them to be so.

Q. Do you recollect whether any opinions were expressed among the officers while at Terre au Bœuf, in favor of the removal of the troops up the river, and whether those opinions were communicated to the General, and at what time?

A. There were opinions of that kind expressed, and I believe they were communicated to the General early in July.

Q. Were the troops well clothed while at Terre au Bœuf?

A. My company had received their year's clothing, which year did not expire with those first enlisted, until the first of July, but, being new recruits, their clothing had become much worn; and I believe this was the case with the troops generally. Some clothing was drawn in advance, by some of the officers, while at Terre au Bœuf.

Q. Do you conceive that Terre au Bœuf is the most eligible place in that country for an encampment?

A. I believe it was as much so as any place in the neighborhood of New Orleans.

Q. What were the diseases with which the troops were afflicted while at Terre au Bœuf?

A. The dysentery continued; in addition to which, they were afflicted with ague and fever, fever, and a disorder in the mouth, which was called by some physicians the scurvy, and by others, by some other name.

Q. Were the troops regularly paid?

A. The law provides that, in ordinary cases, the troops shall be paid every two months. We were paid in New Orleans, up to the last of April; and in August we were paid up to the last of June. At Washington we were paid in January up to the last of December.

Q. At what time did you hear that the General had received orders to remove the troops up the river?

A. I did not hear it until a short time before we removed.

Q. Could boats have been procured at New Orleans sufficient to convey the troops to Fort Adams or Natchez, at any time between the 14th of June and the 10th of September?

A. I doubt whether a sufficient number of boats could have been procured, at any one time, to convey the whole of the troops at once.

Q. How many men died out of your company while at Terre au Bœuf?

A. One man only, and he went sick from New Orleans to that place.

Q. How many men had you generally fit for duty in your company, while at Terre au Bœuf?

A. The report of duty-men arose from twelve, when we first arrived there, up, I believe, as high as twenty-six, about the last of June. In July they became sickly again, and, for some time before we left the encampment, we did not report more than nine or ten.

ENOS CUTLER, 1st Lieut.

WASHINGTON COUNTY, ss.

On this 24th day of April, 1810, before the subscriber, a justice of the peace for said county, appeared Enos Cutler, and made oath, in due form, that the facts stated in the foregoing affidavit are true to the best of his knowledge.

DANIEL RAPINE.

No. 10.

Deposition of Captain Ninian Pinkney, in the first regiment of infantry, taken by the Committee of the House of Representatives of the United States, appointed to inquire into the cause or causes of the great mortality in that detachment of the Army of the United States ordered for the defence of New Orleans.

I have been in the Army of the United States since February, 1801.

I was appointed brigade inspector, and ordered to New Orleans, where I arrived on the 31st of March, 1809.

The public buildings not being sufficient for the accommodation of but a small proportion of the troops which had arrived, and was daily arriving, they were quartered in all parts of the city and faubourgs, in comfortable houses. The sick reports soon became very considerable; and I understood the diseases to be chiefly the dysentery, which attacks all strangers, and of which a number of the men died. The provisions issued to the troops were salted pork and beef, bread, and flour, which I have understood was not of the best quality; nor do I believe good flour or fresh beef, in large quantities, could have been procured in the country.

A detachment of troops, under the command of Major Pike, left New Orleans, on the 3d of June, for Terre au Bœuf, to prepare the ground for an encampment, and the remainder of the Army went down on the 9th and 10th of the same month: at which time I went, and found the ground as well prepared as the short time given them would permit, but some small under-wood, briars, and weeds, remained to be removed on each flank of the line, and ditches to be cut to carry off the water when the rainy season should come on. And, for this purpose, a general fatigue was detailed, consisting of two captains, four subalterns, and two hundred men, which

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was reduced in proportion as those objects were accomplished, and was entirely taken off by the 1st of August.

The tents of the men and officers were made comfortable, by flooring them with the plank taken from the boats in which they ascended the river, and erecting sheds, covered with palmettoes, to protect them from the sun and rain; and every exertion was made by the General to establish and keep up a strict police, as can be seen by the general orders issued at that camp.

I have heard the surgeons and surgeon's mates frequently complain of the want of hospital stores and medicines; and I have understood that the greater part of those articles used at camp Terre au Bœuf was purchased at New Orleans. The regular supply from Philadelphia did not arrive in Orleans until about the 1st of September, at which time the clothing arrived also. Some of the companies were at this time much in want of clothing; not that they had much due them, but because they had spoiled and worn it out before the expiration of the year. And it is a fact, well known in the Army, that the clothing of recruits will not last them the first year, unless the officers take much care.

I do conceive Terre au Bœuf the most eligible place for an encampment I have seen on the Mississippi, within fifty miles of New Orleans.

The diseases with which the troops at camp Terre au Bœuf were afflicted were complicated, and of various kinds, and the physicians differed very much as to their mode of treatment.

The troops were not paid so frequently as the law directs, but I believe as often as the nature of the service would permit.

I do not recollect to have heard that the General had received orders to move the troops up the river, until he was making arrangements to carry it into effect, and that was about the 1st of August.

I do not think a sufficient number of boats could have been had, at any one time, between the 14th of June and 10th of September, to transport the troops to Natchez; indeed, I am satisfied they could not.

Questions by the Committee.

Question. In what situation did you find the ground at Terre au Bœuf, on your arrival at that place?

Answer. The ground at Terre au Bœuf, on which the encampment was making, had the appearance of having once been cultivated as far as the centre, from the extreme right of the line; the other part had never been cleared before, and was covered with underwood and briars, and required to be trenched to take off the rain water.

Q. How long after your arrival at the camp was it before the tents were generally floored?

A. The tents of the men were all, or nearly all, floored in eight or ten days after my arrival.

Q. What was the quality of the provisions with which the troops were supplied at Terre au Bœuf, and what measures were taken to procure those of a better quality?

A. The meat part of the ration was generally fresh beef, and as good as the country commonly affords. The bread and flour was not good, and the General made a purchase of, I think, one hundred barrels, on account of the contractor, of the best flour that could be had in the city of Orleans; but when it was issued, it was found very little better than what the contractor's agent was issuing.

Q. Were mosquito nets or bars necessary for the troops, and were they provided?

A. Mosquito nets are necessary at all points and places on the Mississippi, from the Bluff of Natchez to the Balize, at least four months in the year; but the troops were not furnished with them, except for the sick in the hospital.

Q. Are you acquainted with the country generally in the neighborhood of New Orleans?

A. I have no knowledge of the country in the neighborhood of New Orleans, at any considerable distance from the river banks, except what I have learned from others.

Q. Do you not believe the sickness and deaths were increased by the badness of the provisions, and the want of hospital stores and medicines?

A. I have no doubt of it.

Q. Are you acquainted with the country above New Orleans, and the positions best calculated for military sites?

A. I am not acquainted with the country between New Orleans and Fort Adams, back from the river. The best sites for military positions are in the neighborhood of Fort Adams and Natchez.

Q. Do you know whether any opinions were expressed among the officers in favor of a removal of the troops from Terre au Bœuf up the river, and whether those opinions were made known to the General, and at what time?

A. I know that opinions were expressed among the officers in favor of a removal of the troops from camp Terre au Bœuf, up the river; and I believe those opinions were partially made known to the General, but at what time, or by whom, I cannot say.

N. PINKNEY.

WASHINGTON COUNTY, ss.

On this 24th of April, 1810, before the subscriber, a justice of the peace for the said county, appeared Ninian Pinkney, and made oath, in due form, that the facts stated in the foregoing affidavit are true to the best of his knowledge.

DANIEL RAPINE.

No. 11.

Deposition of John Chrystie, First Lieutenant 6th Infantry, taken by the Committee of the House of Representatives of the United States, appointed to inquire into the cause or causes of the great mortality in that detachment of the Army of the United States ordered for the defence of New Orleans.

I arrived at New Orleans on the 15th of March, 1809. The accommodations of the troops were as good as the town could afford, and the provisions were, in general, such as are usually furnished. I believe, though I recollect complaints were once or twice made and surveys held.

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The market abounded with vegetables; but I do not know whether fresh provisions could have been procured in large quantities.

About a third of the troops were on the sick report some time before our movement to camp, principally with dysenteries.

About the first of June, nine strong companies (being a third of the whole) moved under the command of Major Pike, to the position at Terre au Bœuf, selected for the encampment, and the main body followed in six or eight days after.

On my arrival, about the 10th of June, I found the ground, from the extreme right to some distance to the left of the centre, dry and hard, and great part of the front covered with a firm sod, and I believe clover. Every one seemed pleased with the situation, and the men in general were highly gratified with the change.

The camp was not more infested with mosquitoes, in my opinion, than the city of New Orleans, and they were never troublesome there during the day.

The importance of having the trenches completed before the rains set in, occasioned large details at first, but they decreased with the progress of the work. No labor was bestowed on them further than was necessary to the comfort of the soldiers and neatness of the camp; and I do believe, that those trenches were rather hurtful than otherwise to the plantation. Sheds for the sentries, other sheds capable of turning rain, extended between the lines of tents, from one extremity of the camp to the other; a guard house, and a large hospital, were erected with all possible dispatch. The tents were floored immediately on our arrival.

The hospital department did not appear to meet perfectly the exigencies of the occasion. I do remember to have heard, at one time, considerable complaints on the score of hospital stores and medical attendance. It must be well known, however, I believe, to every officer then in camp, that the greatest exertions were made to remedy these evils.

The provisions were generally fresh and good, except the flour; and I believe very good flour was scarce at that time in New Orleans.

The clothing of the troops was not in good condition, but I understood that none was due until a short time before their departure for Natchez, when it was thought best not to issue.

The most unwearied attention was paid by the General to the police of the camp; and, though, for some time, its condition showed us to be but young soldiers, it soon became perfectly neat and clean.

Of the company to which I was attached, four men died at camp; two of them of the dysentery, which, I believe they had taken at New Orleans.

Vegetables and milk were to be had in abundance, until within a very short time before our departure, but, in general, the market did not answer expectation; a circumstance which may probably be attributed to these causes: certain articles found to be unhealthy were prohibited; prices were at one time restricted; the inhabi-

tants, not understanding the language, frequently had difficulties with the men, and sometimes, when imposed on, could not be redressed; at the same time, the great accession of population to New Orleans, from the Spanish islands, &c., gave them there a ready market.

I consider the position at Terre au Bœuf the most eligible for an encampment, within one hundred miles of New Orleans, on the Mississippi. It is between two large well-cultivated plantations; has the advantage of being immediately at the junction of the road from the Terre au Bœuf neighborhood, with the main levee road—a circumstance manifestly favorable to the market; and, at the same time, its nearness to New Orleans gave every facility of procuring extraordinary supplies.

The rear and extreme left were, on our first arrival, exceedingly wet, and covered with brushwood; but the small growth being cleared away, and the trenches dug, it soon became dry and firm.

JOHN CHRYSTIE, 1st Lieut.

WASHINGTON COUNTY, ss.

On the 24th day of April, 1810, before the subscriber, a justice of the peace for said county, appeared John Chrystie, and made oath, in due form, that the above and foregoing facts in this affidavit are true to the best of his knowledge and belief.

DANIEL RAPINE.

No. 12.

Deposition of General James Wilkinson, April 24, 1810.

To the honorable the Committee appointed to inquire into the cause or causes of the great mortality in that detachment of the Army of the United States ordered for the defence of New Orleans.

GENTLEMEN: I deeply regret my incapacity to comprise, in this hasty report, all the causes which have induced the inquiry before you. But the circumstances of the moment will not permit that broad exposition which it is my desire to present you. Hurried from Baltimore, I left the records of my command for the last season, with other papers of consequence, on ship-board, and they have reached me too late for critical examination and comparison.

I beg leave to premise, that military history, ancient and modern, will show, that in new levied armies more men are lost by disease than by the sword. I quote the authority of Marshal Saxe and General Washington to justify this position; and it may also be supported by a recurrence to the mortality which attended our armies at Ticonderoga, under Major General Gates, in the year 1776, and under Major General Wayne, at his camp of Greenville, in the year 1803, in high latitudes, and salubrious climes. It is also a fact that as great a mortality as we experienced last season, in proportion to numbers, did take place in 1801, at the camp near the mouth of the Ohio, to which Colonel Williams, of the Engineers, now in this city, can testify.

Were I required to say, in a few words, what were the chief causes of the mortality among the

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troops, under my command, on the waters of the Mississippi, the last season, I should ascribe much to the peculiar visitation of Providence, much to the time and manner of assembling the troops at New Orleans, and more to the sudden change from the habits of domestic life to those of the camp; from the ease and comforts of the citizen, to the hardships and exposure of the soldier; to these, however, must be added other subordinate causes, which, doubtless, contributed to exasperate our sufferings. Such were the defects of the medical and provision department, defects which I found it was impossible to control, although every exertion was made to remedy them. It was in vain I sought for competent medical aid; the country did not afford it. Extravagant prices were offered for fresh beef, without effect; and flour of the best quality in New Orleans was purchased for account of the contractor, which, on examination, could scarcely be distinguished from that of our daily issues. The professional standing of the troops, too, was unfavorable to that police, which is indispensable to health in aggregated bodies. Both officers and men were green from the bosom of civil life, and had reached that stage between the armed yeomanry and the disciplined soldier, when the promptitude and enthusiasm of the citizen is lost, and a sense of veteran punctuality and subordination has not been acquired.

On the second of December, 1809, I received orders for the assembly of the troops at New Orleans, by the route of the ocean and of the Western waters; and the corps were assembling at that city from the month of February until May. I arrived there the 19th of April; the vernal heat was then extreme, and I found five hundred and ninety-eight sick, nearly one-third of the whole. At that stage of the season, with such a body of sick, sound discretion and common humanity would, to an observer, have opposed the idea of attempting to mount the river, three hundred miles, under a vertical sun, and against an impetuous current; and if the sick had been left behind, the whole medical staff must also have been left to take care of them, which would have exposed the marching body to disease and death, without succor—a circumstance at once inhuman and unwarrantable.

I perceived at first glance the necessity of removing from New Orleans; but my orders being expressly to “make such a disposition of the troops as would most effectually enable me to defend that city, and its dependencies, against any invading force,” it became my primary duty to seek for the position best adapted to this end, and which combined the fairest prospects of health. At this period, and for two or three weeks after, continued showers of rain kept the flat surface of the country (the earth being saturated by the spring flood) too wet for the formation of an encampment.

The interval was occupied in reconnoitering at all points for a suitable position; and, at the pressing instance of the Governor of the Territory, I visited Terre au Bœuf, near the English Turn,

accompanied by himself, Colonel Smyth, of the rifle corps, (Colonel Parker being indisposed,) and some gentlemen of the vicinity, who gave every assurance of the salubrity of the spot, founded on the experience of years, and promised us a competent market from the adjacent settlements, which extended down the river, and at right angles from it, in a direction to the eastward, for several leagues. I beg leave to refer to my letter to Governor Claiborne, and his answer, marked No 1 and 2, for illustration of the preceding facts.

Under these circumstances, with the concurrence of those who examined the ground with me, it was fixed on for our encampment, and measures were immediately taken to remove the troops from the city. Orders were accordingly given for the march of nine companies, out of twenty-eight, on the first of June; the main body followed on the ninth, and the whole were encamped on the tenth. I wrote to the Secretary of War on the 29th May, advising him of my determination, and apprising him at large of my reasons for preferring this spot. After the establishment of my camp, and on the 14th of June, I received a “conditional” order from the Secretary of War, under date of the 30th April, directing a removal of the troops from New Orleans, if they had been removed, and recommending a position in the vicinity of Fort Adams; but, as the order was imperative, as the mode of transport was not provided, as the movement, by the ordinary means, would have been greatly expensive, as the operation, under existing circumstances, menaced the lives of the men, and more particularly as the troops were gaining health, and general satisfaction appeared to prevail, I replied to the Secretary, under date of the 18th June, repeating the motives which had induced the selection of the spot I occupied, and assigning reasons why the troops should be continued there. Indeed, so strongly did I apprehend the consequences which must attend the transfer of a body of men, a majority of whom were either sick or convalescent, from my camp to Fort Adams, under the heats and dews of the summer, that, had the order of the 30th April been imperative, I think I should have paused over it, until I could have reported our real condition, and received further instructions. Humanity, policy, and justice, to those entrusted to my charge, as well as to my country, would have enjoined it on me to hazard this responsibility. The event justified my fears; and it will ever be my opinion, that, if we had moved to the salt waters in our vicinity, or to the sea shore, which was not distant, we should not have suffered one-third the loss we sustained in ascending the river, and that our continuance at the encampment of Terre au Bœuf, would have been less fatal than the movement we made. The best informed inhabitants anticipated the consequences, and that the opinions of our ablest surgeons were in unison with my own will appear from the reports of Doctors Upshaw, Thruston, and Goodlet, exhibited in the documents Nos. 3, 4, and 5.

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On the 20th of July, I received a letter from the Secretary of War, bearing date the 22d of June, in answer to my letter of the 29th of May. In this letter the Secretary makes reference to his "conditional" order of the 30th of April, and directed me to embark immediately "all the troops" on board the public vessels (excepting the garrisons of New Orleans and Fort St. Philip,) and proceed to the high ground in the rear of Fort Adams, and the public ground in the rear of Natchez. This letter covered the copy of an order from the Secretary of the Navy to Captain Porter, directing him to furnish such vessels as could be spared from the service, for the transport of the troops. Every exertion depending on myself was instantly entered upon to carry this order into effect. But finding that the transport specifically assigned was utterly inadequate to the object, to supply the deficiency, I hired some boats, borrowed others, and repaired several belonging to the public, which had been condemned as unfit for service, and were accidentally discovered to be lying at Fort Adams. Four gunboats fell down to my camp on the eighth of September, embarked one hundred and ninety one men, and sailed the next day; and excepting a small detachment, to raise and repair a sunken boat, the last man left the ground on the 13th, on board the craft which had been employed and repaired. At this time a fever, by which I had suffered, became so violent as to confine me to my bed, and put it out of my power to accompany the troops. I followed them under a severe malady, but it was not until November that my health was restored.

The position of Terre au Bœuf, in relation to the defence of New Orleans, is the best which can be found in the country. It covers our batteries at the English Turn, and, by a sudden transition, our force may be employed to resist any approach by the Lakes on the East or West of the river. The plan submitted to the committee will, I flatter myself, give them satisfaction on this point; and, in addition to other testimony respecting the character of the spot for salubrity, and of the improvements made on it by the troops, I beg leave to offer the deposition of Mr. Delassize, No. 6, the proprietor, and a man of great respectability.

When the troops embarked, the whole of them had been paid up to the last of June, and some of them to the first of September. After that period my orders had no effect on the paymaster, who plead ill health, and his instructions, to remain in New Orleans. When General Hampton relieved me, he advanced some pay to the troops from his private purse, (a thing impossible to a man who had been twenty-five years in service.) and directed the paymaster to be arrested, and sent up in custody of an officer, if he should refuse to march at forty-eight hours' notice. This step had the desired effect, but it was too strong a one for me to take.

No question can be made as to the correctness of the motives which directed the transfer of the troops to the upper country. It will occur to

every man's observation, that, in general, a high country must be healthier than a low one; yet every person must be sensible that this, like all other rules, is liable to exception. This observation is sanctioned by the authority of Doctor Seip, a respectable man and able physician at Natchez, whose report, under cover, No. 7, will prove that district of country to have been more sickly the last season than for twenty years past. Upon the whole, we have been unfortunate, not culpable. The best evidence I can offer of my conduct, in what concerned the sick, will be found in the enclosed testimonial of the medical staff, No. 8, which was handed to me after I had transferred the command of the department to Brigadier General Hampton, and was about to leave the country. I throw myself upon the candor and justice of the committee to pardon me for observing, that I have seen, from the public prints, that the arts and intrigues of my enemies, co-operating with a current of prejudice, have perverted and misrepresented, to my injury, the scenes to which this report has reference. The tales of ignorant, discontented, seditious, and worthless subalterns, and the fictions and falsehood of my personal and political enemies, have been industriously circulated to wound my character; but being conscious that, in this, as in every other instance of public service, I have done, and more than done my duty, I court inquiry, and defy investigation.

To these facts and statements I am willing to depose; and with the highest consideration and respect for those whom I address, I have the honor to be, gentlemen, your obedient servant,

JAMES WILKINSON.

WASHINGTON CITY, April, 24, 1810.

WASHINGTON COUNTY, ss.

On this 24th of April, 1810, before the subscriber, a justice of the peace for said county, appeared James Wilkinson, and made oath, in due form, that the foregoing facts, as stated, are true, to the best of his knowledge, recollection, and belief.

DANIEL RAPINE.

Papers accompanying the deposition of General Wilkinson.

No. 1.

Extract of a letter from General Wilkinson to Governor Claiborne.

CAMP TERRE AU BŒUF, July 27, 1809.

"SIR: As much clamor has been made with respect to the merits of this position, in point of its health and fitness, I take the liberty to address you on the subject.

"And as you offered me the first suggestion in its favor, I will thank you to inform me whether you did not reconnoitre the site before I determined to adopt it for my encampment, and afterwards reiterate to me your recommendation of it? In addition to the sanction of your opinion, I believe it is within your knowledge, that the most ancient and respectable inhabitants of the country concur with you in sentiment. But as you have also seen the encampment since it was

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formed and improved, I shall be obliged by the avowal of your opinion of its present appearance and salubrity."

True extract. N. PINKNEY, *Captain.*

No. 2.

Extract of letter from Governor Claiborne to General Wilkinson, dated

NEW ORLEANS, *July 28, 1809.*

"I received your letter of yesterday. My opinion is now, and always has been, that the position you occupy, at the commencement of the English Turn, is the most eligible one, for such troops as may be designed to give protection to the city of New Orleans. It has, moreover, been represented to me, by several of the old inhabitants, (and from my own observations, I do not doubt the fact,) to be as healthy as any site on the Mississippi, between Baton Rouge and the Balize.

"I did, therefore, after having myself viewed the spot, which I found to be more elevated than the land on the Mississippi generally is, advise you to fix your summer cantonment at that place; and I am now persuaded, from the great care which is taken to keep the ground dry, to defend the men from the influence of the sun, and to lodge them comfortably, that the number of your sick will daily diminish."

True extract. N. PINKNEY, *Captain.*

No. 3.

By order of General Wilkinson.

A report on the diseases of the Camp, *Terre au Bœuf*, their causes, character, and mode of treatment.

CAMP, *TERRE AU BŒUF, July 20, 1809.*

The diseases which are now prevalent among the men in camp, are chronic diseases, bilious and intermitting fevers, some cases of scurvy. The chronic diarrhœa was first introduced by the change of aliment, and the use of the Mississippi waters; which water is strongly impregnated with calcareous earth and carbonate of lime. Many of the men were violently attacked before their arrival at New Orleans with diarrhœa, from the use of the water when on their route up the river. On the first arrival of the troops at New Orleans this disease was common, almost universal; generally speaking, the disease proved fatal, or yielded to treatment, before our encampment was formed; but, even now, many are found lingering in the last stage of cold diarrhœa, of from three to four months standing. It may safely be affirmed that three-fourths of the deaths in camp have been from this disease.

The bilious and intermitting fevers are more common in camp than they were in Orleans; but of the number of cases I have seen there has been no one attended with violent or fatal symptoms in the first stage, and appear to yield readily to the depleting plan of treatment. These diseases belong to the climate and territory of Orleans; and are, I believe, less violent in this camp than at Orleans. The bills of mortality are greater at

Orleans, in proportion to the population, than here, notwithstanding the disadvantages we are of necessity compelled to encounter.

The scurvy exists in a few cases, but is not to be feared, as we can command vegetable food and acids. The men, when sick, living on the rations, is, no doubt, the cause of the scurvy.

Ample reasons will be found, in the imperfect state of the medical staff, and want of capacity in many who compose that staff; in the want of a hospital, hospital stores, and medicines, for the mortality of the soldiery. When the hospital, which is now building, shall be finished, when each medical man shall have his duties well defined, and those of the best capacity placed in situations the most responsible and dangerous, if the military agent should receive such instructions as would enable him to supply the sick with such hospital stores and medicines as are necessary, I feel assured of the truth I now assert, that our deaths would be lessened three-fourths.

The additional expense ought not to be calculated, where the lives and health of the troops are concerned; but, by stopping the rations of the sick man this expense will be very small. It is a distressing sight, and truly unpleasant to the feelings of the medical man, to be in attendance on the sick soldier, and see him die for the want of proper food and medicines; humanity mourns over such a sight. Justice, policy, and patriotism, require this allowance and liberality from Government. It is a fact that there is not one dollar of public money which can be had to purchase milk or vegetables in camp; many are, of course, suffering for necessities, which might be bought for a few shillings. The commutation of the ration would be sufficient for this purpose.

There are many sick men in camp who cannot be moved, however desirable it might be, even to the hospital in Orleans. They came here sick, have grown worse, and are now on the brink of the grave. Transporting them, in this hot climate, would be certain death.

WM. UPSHAW,
Surgeon 5th infantry.

No. 4.

CAMP, *TERRE AU BŒUF, July 29, 1809.*

SIR: In pursuance of your request, I proceed to give you a report at this place, together with the several diseases, and my opinion as respects the site of this encampment. I feel a difficulty in draughting this report, as no doubt there must be contained in it many subjects which require a more full and free investigation than my health and time will allow me to allot to the performance. Should any inaccuracies appear on the face of it, I trust your goodness of heart, and your good sense, will lead you to pass them over in silence.

On the 4th of July I arrived at this camp, and found great numbers on the sick reports; some laboring under dysentery, some with bilious intermitting fevers, and others with scurvy, though small in proportion. Those afflicted with dysen-

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tery were very much reduced when I first saw them, and almost all of them died. I was induced to make inquiry into the circumstances of this disease; I found it was generally subsequent to bilious fever, and that very few cases of this complaint commenced with the usual symptoms which attend it in the first instance. Some new cases of dysentery have come immediately under my care, which, when taken in time, have nearly yielded to medicine and such diet as was proper for them. I think the disease on the decline, and I do not dread the recurrence, unless some material change in the season should predispose the constitution of the soldiery to take it. There are circumstances that might render this fatal disease epidemic; and I dread them much. But a good market, with such hospital and medical stores as may be necessary, not too many of the men confined together, avoiding the night air and dews, will, in a great measure, obviate the apprehensions and danger.

There are but few cases of bilious remitting fever now under my care. They are very obstinate, and when they do yield to medicine, the patient is often attacked when extremely debilitated by diarrhœa, and carried off without fever or any other distressing symptom.

The intermitting fever is now the most prevalent complaint in camp. Some, when apparently on the recovery, are suddenly taken with dysentery and diarrhœa, which terminates in death or extreme debility. This disease often alternates (as I have often seen) from fever to dysentery and diarrhœa, and from the two latter to the former, many times in the week. Such cases are dangerous, and I find great difficulty in their treatment. The bark loses its effect in a few days, and, indeed, often produces nausea and disgust very disagreeable to the patient. I find antimonials in small doses, and repeated blisterings to the extremities, of great service. I, this day, commenced with different preparations of arsenic, and have great hopes of the success. The scurvy has made its appearance; several have died with it. It has increased considerably within ten days, and I fear that the progress will be difficult to arrest. In some cases, the rapid march astonished me. Every effort that I made towards relief and cure was fruitless, (though this was not always the case) and my prescriptions appeared to have no effect in alleviating the miseries of the suffering patient. This disease wears a peculiar character, and differs, in my estimation, from that disease described in different authors. The continuance of fresh provision, constant supplies of vegetables, and a strict adherence to cleanliness, will prevent its spreading through camp. I feel the more confident in the opinion, from the circumstance that no officer in the line has had it. The sick reports of four companies, which I attend, have enlarged considerably, though, in the increase, but few dangerous cases have occurred. I see no reason to believe that anything like an epidemic rages in camp. I fear the approaching season will bring upon us some distressing and fatal disorders, that will pay no respect to persons.

My fears on this head, I trust, may be imaginary. The situation of this camp I believe to be the best on the Mississippi, in any part of this country: I draw this opinion, not from an acquaintance with the sites, but from the judgment and opinions of the best informed men with whom I have conversed on the subject. I do not think our situation could be bettered at this season of the year. The danger of a removal at this period, I think hazardous in the extreme—I mean a removal to any distance, where the troops would be obliged to be conveyed in small vessels by water, and contending against a strong and difficult current. When I give this opinion, I wish to be understood that I allude to a removal in the hot months. As soon as the weather will permit, I do think it would be endangering the lives of the soldiery to continue them here.

The above sketch is given upon mature reflection, backed upon some experience, and not biased by party or prejudice. I trust it will meet your approbation, and accord with your sentiments.

I have the honor to remain, with high regard, esteem, and respect, your very obedient humble servant, &c.

A. THRUSTON, *Surgeon 7th Inf.*

Gen. J. WILKINSON, *Commanding.*

No. 5.

WASHINGTON, *January 3, 1810.*

SIR: I should do injustice to yourself, and violence to my own feelings, were I to permit your Excellency to leave this Territory without giving you my sentiments, as respects Camp Terre au Bœuf, and the march from that place to our present situation. Circumstances relative to my professional calls precluded the possibility of affording this testimonial to your Excellency, at, perhaps, a more seasonable time.

The calls of my worthy friend Colonel Russell, then lying on the bed of sickness at New Orleans, prevented my doing the task which I now present for your perusal.

As a member of the medical staff, and who was amongst the earliest of those who arrived at New Orleans, I could not fail to observe the different and varied changes of the diseases which have occurred in the Army. From dire necessity I was obliged to attend to every corps in the line, save the light artillery, and I trust you will excuse me when I say I could not fail to have an accurate knowledge of the situation of every company in the line. At the period when our movement was spoken of and contemplated, I do not for a moment hesitate to declare that the men were on the recovery. The thoughts of a remove or ascent up the Mississippi, made me tremble for their fate, and the more so, when I recognised the debilitated situation of the soldiery, consequent to the climate in which they were exposed. Let me here observe (and I flatter myself I am correct in the assertion) that the troops were evidently on the recovery, and at that time, too, which was all-important to every individual who composed our Army. It has al-

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ways been my opinion (and I have seen nothing to induce me to alter it) that hundreds of men were lost by the movement from the Camp Terre au Bœuf, that otherwise might have now been alive. Believe me, sir, when I tell you, our march was premature by many, very many weeks; for, as the men were evidently on the recovery, a little time would have rendered them more capable to undertake and brave the hardships which stared them in the face. These hardships have occurred, they have been experienced and sorely felt, under circumstances, when affliction and disease had enervated every fibre in their system. But the soldiery were not the only people in this Territory who had the prevailing diseases of our camp. From careful inquiry I find the citizens on the Mississippi in the same unhappy situation; and it was observed by many old and well informed inhabitants, that the country had not been so sickly for a number of years. In truth I believe that the same fate would have attended us had our situation been anywhere else on the river. The despondency of mind attending necessarily young troops, adding to that the distance from relatives and friends, and the very bad fare from inexperience in the culinary way, was at least as injurious to the men as the local situation of the camp.

The limits of a letter will not permit me to enlarge on this subject. I now, sir, bid you farewell. May the services you have rendered your country be long remembered by a grateful people, and be a solace and comfort to you in your last moments.

I have the honor to be, sir, your most obedient and humble servant,
A. G. GOODLET.
Gen. WILKINSON.

No. 6.

Deposition of Mr. Delassize.

MARCH 10, 1810.

The undersigned, Jean Delassize, a native and inhabitant of Louisiana, being forty-three years of age, on his oath declareth, that he is, and has been for four years, the proprietor of the ground at Terre au Bœuf, which was occupied by the troops under the command of General Wilkinson the past season; that no proposition was ever made to him, by or for General Wilkinson, directly or indirectly, respecting the purchase of said place, or any part of it; that no levee, or any part of one, was erected by the troops encamped on said ground, nor any other works made on it, but such as appeared necessary to the comfort of said troops; that said ground adjoined the cane field of this deponent, and that no clearing or other improvements was made on said ground to prepare for its cultivation; that the trenches and ditches, cut to keep the camp dry, were rather injurious than beneficial to the tillage of the ground, a large proportion of which was covered by clover. far before the troops came to it; that the accommodations made and materials brought to the ground for the use of the troops, were sold at public vendue for the account of the United

States; and that, for the pasturage furnished the public horses, for the timber and fuel used, and damages sustained during the occupancy of three months, the deponent received the sum of six hundred and forty dollars and fifty-four cents only.

The undersigned further declares that he has resided at the same place, and adjacent to the said camp, with a population of more than sixty souls, during the space of years, and that, from his observations and experience, he considers it as healthy a spot as any in the vicinity of New Orleans. A true copy from the original.

JEAN DELASSIZE.

Sworn before me, this 10th day of March, 1810.

J. DUCHANYU.

No. 7.

NATCHEZ, February 15, 1810.

General Wilkinson will please excuse the delay of my reply to his favor of the ninth instant, when I assure him that nothing but want of time prevented it sooner.

Very respectfully, sir, yours, &c.

F. SEIP.

The diseases most predominant during the last and preceding seasons, in this country, as far as it has come within my knowledge, were fevers of the intermitting and remitting kind, cholera, dysentery, and catarrh. The mortality attending these complains is by no means great, in comparison with the numbers attacked. A cause of this, no doubt, is the tendency most diseases here have to run into the intermitting state; a form of all others most immediately under the control of medicine, and one by which time is allowed to obviate a recurrence of the diseases. The violence of intermitting diseases at the same time being chiefly exerted upon the spleen and other abdominal viscera, unless arrested in time, impair the constitution, and thereby lay the foundation for other disorders, which, though slow, eventually destroy life.

The aptitude every form of disease has to run into that state, is so great, that peripneumonia, catarrh, ophthalmia, and even rheumatic affections, frequently partake of it, and very often require bark and other tonics to complete the cure.

The last epidemic we experienced in this country, was the influenza of the autumn of 1807, which commenced with the month of November, and continued during the greater part of that winter. Pleuritic symptoms combining with the influenza, contribute much to increase its mortality. A remarkable change in the character of that disease (pleurisy) took place at that period; cases occurring where it became necessary to use the lancet as freely as it ever is done in the Eastern States. Something of the same nature I think I have remarked in this disease often since, depletion being necessary to a much greater extent than I had seen it used previous to that year, and some of them in newly arrived Africans. Catarrhs have prevailed at different periods since, but not to so great a degree in force or extent.

Mortality in the Troops at New Orleans.

Some few cases, it ought to be observed, of that complaint, the last autumn, were strongly marked in their symptoms, such as accompanied the influenza of the year 1807. These were collections of matter in the antrum and frontal sinus; symptoms most characteristic of that disease, followed by the peculiar fœtid discharge from those cavities. Some instances have occurred, when the abscess was seated in the lungs; unattended, however, with hectic fever; the discharge as fœtid, soon, as in the other cases, relieved itself, and a speedy convalescence followed.

The only endemic disease of the past season was the intermitting fever; and so prevalent was it, that I have been frequently assured that nothing equal to it has been experienced for twenty years. This is ascribed, and with much probability, to the extreme rise of the Mississippi, covering the low grounds, and retiring during the summer. How far the influence of its banks and the adjacent low grounds on the western side of that river extends eastward, is yet undecided; but that it does, for a great distance, is evident from the similarity of the diseases of both countries. The diseases, in fact, of all the high lands in this neighborhood, are properly such as are generated upon low and marshy situations; many artificial causes, it is true, increase the evil, such as clearing the low grounds, erecting ponds, &c. During the last summer those situations which, in former seasons, were most exempt, became very subject to the prevailing diseases. The character of this endemic differed somewhat from the same disease of other years; a deep sighing was a very constant symptom of the remitting and intermitting fevers of the present year, with great pain at the pit of the stomach, and copious discharges of a dark color from the stomach and alimentary canal.

The access of the above diseases was, for the most part, preceded by a lassitude, slight rigor or chill, one or two days previous to the attack, recurring at regular periods daily, or every other day, and increasing in violence until the disease became fully marked. The chill varied in different cases, and was mostly attended by an exceedingly irritable state of the stomach, by vomiting. To this succeeded the fever, which continued from six to twenty-four hours, with excruciating pain of the head, back, and pit of the stomach. When the patient was robust and of a plethoric habit, the fever frequently set in with a very slight chill, and continued for two or three days before a complete intermission took place.

What the general effect of this climate might be upon a body of men subject to military habits, &c. I could not venture to say from experience; but the poorer class of emigrants, who annually visit this country from above—the first effect occasioned by intense heat, and other remote causes, upon persons of that description, discovers itself early in an attack of cholera morbus, remitting and intermitting fever, diarrhœa, or dysentery: the former are by much the most favorable forms of seasoning, as it is usually termed; the diarrhœa or dysentery are invariably the

worst, and at all times, a most serious complaint. This last form of disease, no doubt, would be the one most likely to occur, where improper diet, intemperance, and frequent exposure to the sudden changes of air, take place. The difficulty of restoring the tone of the bowels after an attack of that complaint, is such, that it not unfrequently baffles every attempt of medicine, and requires a change of climate to effect it.

To guard a large body of men against the occurrence of disease, from such numerous sources, would, without doubt, be a very difficult thing to accomplish, unless their arrival could be so managed as to inure, in some measure, the constitution gradually to the change of climate. This has been sometimes attempted in introducing fresh gangs of negroes into the Territory, and apparently with the happiest effect. Depletion here was substituted, and lenient exercise, for some time, together with a proper regimen, observed.

No. 8.

WASHINGTON, January 23, 1810.

SIR: As you have resigned the command of the troops to which we are attached, this letter cannot, by the most malignant, be ascribed to any improper motives, and we beg you to be assured that it proceeds from the most disinterested source, and is produced by a temper of justice only.

In offering to you our best wishes for your future health and happiness, we should not do justice to our feelings, nor your conduct, if we omitted to acknowledge your incessant attention to the department of which we are members, or failed to give testimony to your solicitude, your tenderness for, and fostering care of the sick; for it was, sir, to the supplies of extraordinary comforts and necessities which you from time to time have ordered, that we owe the lives of many men; and whatever may have been the misrepresentations or misapprehensions which have gone forth on this subject, we have no doubt the consciousness of your own good conduct will afford you the richest reward under heaven.

We have the honor to remain, your very obedient and humble servants,

J. W. DANIEL,
Hospital Surgeon, U. S. A.

D. CLAUDE,
Surgeon Light Artillery.

ALFRED THRUSTON,
Surgeon 7th Infantry.

WM. UPSHAW,
Surgeon 5th Infantry.

SMITH CUTLER,
Surgeon Rifle Corps.

LEWIS DUNHAM,
Surgeon Dragoons.

THOMAS PINKERTON,
Surgeon's Mate U. S. Army.

A. G. GOODLET,
Surgeon's Mate 7th Infantry.

THOMAS LAWSON,
Surgeon's Mate.

General WILKINSON.

Allowance of Drawback.

ALLOWANCE OF DRAWBACK.

[Communicated to the House, February 21, 1810.]

Mr. NEWTON, from the Committee of Commerce and Manufactures, to whom was referred the petition of George Armroyd & Co., made the following report:

The petitioners state that, on the 10th of July, 1807, certain goods, wares, and merchandise, were imported in the schooner Christianstadt, into the United States, viz: at Wilmington, in the district of Delaware, and that the same were afterwards transported, coastwise, in the sloops Carolina and Ann, to Philadelphia.

That, on the 2d day of October, 1809, Mr. Percival, one of the partners of the firm, made application, at the custom-house of Philadelphia, to know whether the merchandise was then entitled to drawback: the deputy collector and naval officer, on examination, determined that the merchandise was entitled to the drawback, and would continue so if shipped on the 3d or 4th of October.

That, on the 3d of October, the merchandise was shipped for a foreign port, after having previously obtained the export permits. The petitioners further state, that, at the usual period, certificates for debentures were issued, subscribed by the deputy collector and naval officers, and delivered to the petitioners, to enable them to receive, from the collector at Wilmington, the amount of the drawback, and that, on the application of the petitioners to the collector of Wilmington, for the amount of the debentures, he refused to pay the same, alleging as a reason, that the merchandise had been too long within the United States to be entitled to the drawback of duties. All the facts set forth in this statement are supported by custom-house certificates. Two letters, one from the Comptroller of the Treasury, and the other from the deputy collector of the custom-house at Philadelphia, accompany the petition. By the computation of the Comptroller, the time during which the merchandise was entitled to a drawback, had expired by a day, but, from the calculation made by the deputy collector and naval officer of Philadelphia, the exportation took place two days within the period allowed for transshipments of merchandise with benefit of drawback.

The committee are of opinion, that the drawback of duties in this case, as made out by George Armroyd and Company, ought to be allowed, inasmuch as they were induced to make the shipment of merchandise for a foreign market, under a conviction that the same was entitled to the allowance of a drawback of duties, by the decision of the deputy collector and naval officer of the custom-house at Philadelphia, whose province it is to superintend importations and exportations of merchandise.

The committee are disposed to exact a strict compliance with law, in matters of great public concern, when the party acts spontaneously, or from advice of persons not clothed with the insignia of office; but, under the circumstances of

this case, they do not admit that it comports either with the honor or justice of the National Legislature, to take advantage of an error, if error it be, committed by citizens acting in conformity to the decision of its authorized agents. It appears, from the documents before the committee, that George Armroyd and Company would never have exported the merchandise had they not been previously assured, by the proper authority, that the drawback of duties would be allowed. The difficulty in this case arises in a great measure in the three following circumstances: 1st. The time allowed for the exportation, with an allowance of the drawback, being made up of parts of different years; 2d. The deduction of the time during which the embargo was in force, viz: from the 22d of December, 1807, to the 15th of March, 1809; and, 3dly. The intervention of leap year.

The committee are not disposed to rest the claim of the parties to the justice of the National Legislature on either of the three points stated.

Their decision is founded on the official acts of the deputy collector and naval officer of the port of Philadelphia. The letter of Mr. Graff, the deputy collector, clearly proves that the petitioners acted fairly, and in strict conformity to the usage of the custom-house.

Though the committee make their decision in favor of the parties, on the grounds stated, yet they are satisfied it might be made to depend, with great propriety, on the other points. The calculation of the Comptroller of the Treasury, contained in his letter, to which the committee beg leave to refer, differs from that made by officers of the customs at least by a day. According to strict and fair computation, it appears that the additional day in leap year should be given as a day of grace to the petitioners. If there had been no embargo, part of leap year would have been computed in the time allowed for the exportation with benefit of drawback. It never was the intention of the Legislature to narrow the privilege of exportation with the allowance of drawback of duties, existing at the time the embargo was laid, as is clearly evinced by the passage of the law, to prevent the time, during which the embargo should be in force, being computed as making part of the term of twelve calendar months, during which, goods, wares, or merchandise, imported into the United States, must be exported, in order to be entitled to a drawback of the duties paid on the importation. If there had been no suspension of foreign trade, the impression on the committee, from the statement of the deputy collector, Mr. Graff, is, that the additional day would have been allowed to the petitioners.

From this view of the case, the committee respectfully submit the following resolution:

Resolved, That the prayer of the petitioners is reasonable, and ought to be granted.

—
TREASURY DEPARTMENT,
Comptroller's Office, Dec. 8, 1809.

SIR: Your letter of the fourth, with one from Mr. Graff, relative to an exportation of merchan-

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dise imported into the district of Delaware, and exported from Philadelphia, is received.

The collector of Delaware has been informed that the exportation was not made in time, and therefore, that the merchandise was not entitled to drawback.

The date of importation was the 10th of July, 1807, and the export entry was on the 3d of October, 1809. Including the day of importation and that of exportation, and excluding the time that the embargo was in force, there will remain three hundred and sixty-six days.

Now, as three hundred and sixty-six days are made up of parts of the years 1807 and 1809, and the intermediate was leap year, there can be no question but that the goods were exported too late by one day. The law requires that an exportation for drawbacks shall be made in twelve calendar months, and those months will always be comprehended in three hundred and sixty-five days, except in leap year, in which three hundred and sixty-six days are contained.

Enclosed is a copy of the calculation made at the Treasury.

I am, sir, respectfully, your obedient servant,
G. DUVALL.

JOHN STEELE, Esq.

Imported July 10, 1807.

	Days.
July - - - - -	21
August - - - - -	31
September - - - - -	30
October - - - - -	31
November - - - - -	30
December - - - - -	21
	<hr/> 164
1809.	
March - - - - -	16
April - - - - -	30
May - - - - -	31
June - - - - -	30
July - - - - -	31
August - - - - -	31
September - - - - -	30
October - - - - -	3
	<hr/> 202
	<hr/> 366
	<hr/>

PHILADELPHIA, December 4, 1809.

SIR: On the 2d of October last, whilst yet acting as your deputy, Mr. Percival, of the house of George Armoyd and Company, came to your office, (you were just then absent,) and asked me whether goods imported on the 10th of July, 1807, were entitled to drawback, and when the time would expire. There was a considerable press of business at the time, and I asked him, have you tried the time, and do you say they are entitled to drawback? He answered he had, and that they were entitled thereto. I think I replied, if you are sure, there is no occasion for me to try; make out your entries, and get permit to

ship your goods. He answered, that he wished me to examine, as a little while past I had declared the time to have expired in the case of some other goods, when he thought they were entitled to drawback. I did try, and made the time to expire on the 3d or 4th; at same time I gave the date to the deputy naval officer, and he agreed with me. He said they were ready to ship the goods then, but the vessel was in the hands of the carpenters, and as there appeared some time to spare, and the goods could be laden on board in a few hours, they did not take out the export permit until the following day; and had I not, on the solemn declaration I had taken, not to suffer the revenue of the United States to be defrauded, been satisfied the goods were entitled to drawback, I never would have issued the permits, qualified the exporter to his entries, suffered the export bonds to be signed, and then have issued the certificates to obtain the drawback in Delaware district, all which has been done. The deputy naval officer, under like conviction, did sign the export permit and certificate No. 2. I feel much concern to find that the collector of Delaware has refused to issue the debentures, and that the certificates No. 2, have been returned. This, I believe, is the only act of mine, since you have been in office, which is likely to give you trouble; and I regret it more particularly, that it should have happened on the eve of my declining my situation as your deputy. The bonds were signed on the 5th, of course. The certificates were of that date, in order to enable the collector to know when the debentures ought to be made payable. I am not yet convinced that these goods are not legally entitled to drawback. What says the law? vol. 4, sec. 75, page 395. "Drawbacks shall be allowed and paid on all goods, wares, and merchandise, imported into the United States, whereupon the duties shall have been paid, or secured to be paid, as, within twelve calendar months after payment or security given, shall be exported to any foreign port or place," &c. The collector of Delaware makes twelve calendar months to consist of three hundred and sixty-five days. They sometimes contain three hundred and sixty-six days. But, sir, the law has always been construed so as to take in the date of the month of importation, of the following year, viz: Goods imported on the 10th of July, in one year, if shipped on the 10th of July, in the following, have always received the drawback. Your books will show many instances of this kind, and no demur has ever been made at the Treasury. The law does not say within one year from the date of importation, but within twelve calendar months after payment, &c. A question would here arise, which I believe has never been agitated, when the twelve calendar months legally expire. A imports goods in a vessel entered at the custom-house on the 10th of July, 1809; he enters his goods on the 15th, and pays the duties. B has goods in the same vessel, and he secures the duties on the 20th. Quere. Do the twelve calendar months expire on the 15th, 20th, or the 10th of July, 1810? But, admitting the true construc-

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tion of the law to be after the date of importation, the calculations might be made in two days, which appear to be just and legal—say, in this case,

	Months.	Days.
After the 10th of July, 1807, to 31st of same month	-	21
August, September, October, November	-	4
To December 21st	-	21
After 15th March to 31st same month, 1809	-	16
April, May, June, July, August, September	-	6
October 1st to 3d	-	3
	10	61

Or thus, which is according to common usage:

	Months.	Days.
After 10th of July to 10th December, 1807	-	5
To 21st December	-	11
After 15th March to 15th September, 1809	-	6
To October 3d	-	18
	11	29

Eleven months and twenty-nine days. This appears to be the law ; it does not say three hundred and sixty-five or three hundred and sixty-six days. Suppose the law to say within three calendar months from the date of importation.

January 1st, to March 31st, would be ninety days for three calendar months ; February 1st, to April 30th, would be eighty-nine days for three calendar months ; March 1st, to May 31st, would be ninety-two days for three calendar months.

The collector of Delaware's calculation is certainly incorrect. I cannot be persuaded but that the exporters, George Armroyd and Company, are legally entitled to the drawback in question, and I respectfully request you will be pleased to lay this statement before G. Duvall, Esq., Comptroller of the Treasury, who, I trust, will under the peculiar circumstances of the case, and giving the law a liberal construction, be induced to admit the claim, and direct payment thereof, by the collector of the district of Delaware.

Respectfully, I am, sir, &c.

JOHN GRAFF.

JOHN STEELE, Esq.,
Collector of Philadelphia.

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the Mississippi Territory. All the lands of the United States in the said district, with the exceptions above-mentioned, remaining unsold at the close of the public sales, may be disposed of at private sale, by the register of the land office, in the same manner, under the same regulations, for the same price, and on the same terms and conditions, as are or may be provided by law for the sale of the lands of the United States in the Mississippi Territory; and patents shall be obtained for lands sold in said district, in the same manner, and on the same terms, as are provided by law for other public lands sold in the Mississippi Territory.

Sec. 2. And be it further enacted, That the superintendents of the public sales, directed by this act, shall each receive six dollars a day, for every day's attendance on the said sales.

Approved, June 15, 1809.

An Act to continue in force "An act declaring the assent of Congress to a certain act of the State of South Carolina, passed the twenty-first of December, one thousand eight hundred and four."

Be it enacted, &c., That the act of the twenty-eighth of March, one thousand eight hundred and six, entitled "An act declaring the consent of Congress to an act of the State of South Carolina, passed on the twenty-first day of December, one thousand eight hundred and four, so far as the same relates to authorizing the City Council of Charleston to impose and collect a duty on the tonnage of vessels from foreign ports," be and the same is hereby continued in force from the passage of this act for five years, and thence to the end of the next session of Congress thereafter, and no longer.

Approved, June 15, 1809.

An Act to fix the time for the next meeting of Congress.

Be it enacted, &c., That, after the adjournment of the present session, the next meeting of Congress shall be on the fourth Monday of November next.

Approved, June 24, 1809.

An Act for the remission of certain penalties and forfeitures, and for other purposes.

Be it enacted, &c., That the President of the United States be and he is hereby authorized to remit any penalty or forfeiture which may have been incurred in consequence of any of the provisions of the act, entitled "An act to prohibit the importation of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, in the year of our Lord one thousand eight hundred and eight," by any person who may have been concerned in bringing into any port or place within the jurisdiction of the United States, any slave or slaves, owned by any person or persons who shall have been forcibly expelled from the island of Cuba, by order of the Government thereof: and the President of the United States is hereby further

authorized to release all vessels and other effects, which may have been or may hereafter be seized therefor: *Provided,* That he shall be first satisfied, in every case, that the person thus concerned in bringing in such slave or slaves as aforesaid, was impelled thereto, by circumstances which, in the judgment of the President of the United States, would justify the act; and without any intention on the part of such person voluntarily to evade any of the provisions of the act aforesaid: *And provided, also,* That such slave or slaves shall have been brought into the United States in the same vessel and at the same time as their owner or owners respectively.

Sec. 2. And be it further enacted, That the President of the United States be and he is hereby authorized to make any arrangement with the Minister Plenipotentiary of France, which he may deem necessary and proper, for transporting such of the unfortunate exiles from the said island of Cuba, with their effects, as shall desire to depart from the United States to any port or place within the territories of France, her colonies, or dependencies, any law to the contrary notwithstanding: *Provided,* That the vessels transporting the same shall depart only in ballast, and without taking on board any other cargo than such sea stores as may be deemed necessary for the voyage in every case. And to enable the President to carry into effect any such arrangement, as well as for supplying, temporarily, such of the unfortunate exiles with the necessities of subsistence, as may be in actual want thereof, there be appropriated the sum of fifteen thousand dollars, or so much thereof as may be necessary for these objects, to be paid out of any money in the Treasury, not otherwise appropriated: *Provided, however,* That all moneys drawn out of the Treasury, in virtue of this act, shall be charged to the French Government, under such stipulations for reimbursing the same, on the part of the Minister Plenipotentiary of France, as, in the judgment of the President, may be deemed proper for that object.

Sec. 3. And be it further enacted, That all claim and demand of the United States to any moneys arising from the sale of the ship *Clara*, sold in pursuance of a decree of the district court for Orleans district, holden in March, one thousand eight hundred and nine, be and the same is hereby relinquished and remitted to Andrew Foster and Jacob P. Giraud, late owners of the said ship *Clara*, anything in any former law to the contrary notwithstanding.

Approved, June 28, 1809.

An Act to amend and continue in force certain parts of the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes."

Be it enacted, &c., That the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, seventeenth, and eighteenth sections of the act, entitled "An act to interdict the commercial inter-

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course between the United States and Great Britain and France, and their dependencies, and for other purposes," shall continue in force until the end of the next session of Congress: *Provided*, That nothing therein contained shall be construed to prohibit any trade or commercial intercourse which has been or may be permitted in conformity with the provisions of the eleventh section of the said act.

SEC. 2. *And be it further enacted*, That all acts repealed, or mentioned, or intended to be repealed by the said act, to interdict commercial intercourse between the United States and Great Britain and France, and their dependencies, shall be and remain repealed, notwithstanding any part of the same act which has been or may hereafter be revoked or annulled, or which may expire by its own limitation: *Provided*, That all the penalties and forfeitures which may have been incurred, or shall hereafter be incurred on account of any infraction of the act laying an embargo on all ships and vessels in the ports and harbors of the United States, or of any of the acts supplementary thereto, or of the act to enforce and make more effectual an act, entitled "An act laying an embargo on all ships and vessels in the ports and harbors of the United States," or of any of the provisions of the act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes, shall, after the expiration of any of the said acts or of any provision thereof, be recovered and distributed in like manner as if the said acts and every provision thereof had continued in full force and virtue.

SEC. 3. *And be it further enacted*, That, during the continuance of this act, no ship or vessel, except such as may be chartered or employed for the public service by the President of the United States, shall be permitted to depart for any foreign port or place with which commercial intercourse has not been or may not be permitted by virtue of this act, or of the act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes. And no ship or vessel bound to a foreign port or place with which commercial intercourse has been or may be thus permitted, except such as may be chartered or employed as aforesaid, shall be allowed to depart, unless the owner or owners, consignee or factor of such ship or vessel shall, with the master, have given bond with one or more sureties to the United States, in a sum double the value of the vessel and cargo, that the vessel shall not proceed to any port or place with which commercial intercourse is not thus permitted, nor be directly or indirectly engaged, during the voyage, in any trade with such port or place. And if any ship or vessel shall, contrary to the provisions of this section, depart from any port of the United States, without clearance, or without having given bond in the manner above-mentioned, such ship or vessel, together with her cargo, shall be wholly forfeited, and the owner or owners, agent, freighter, or factors, master, or commander of such ship or vessel,

shall, moreover, severally forfeit and pay a sum equal to the value of the ship or vessel, and of the cargo put on board the same: *Provided, always*, That the provisions of the eleventh section of the act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes, shall extend to the prohibitions imposed by this section; which prohibitions shall cease to operate in the manner and under the limitations prescribed by the eleventh section aforesaid, in relation to any nation with which commercial intercourse may hereafter be permitted, in conformity with the provisions of the eleventh section aforesaid.

SEC. 4. *And be it further enacted*, That all penalties and forfeitures arising under, or incurred by virtue of this act, shall, during the continuance and after the expiration thereof, be recovered and distributed, and may be remitted or mitigated in the manner prescribed by the act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes, and the acts therein referred to.

SEC. 5. *And be it further enacted*, That all the vessels which may have arrived at any port or place within the United States from Great Britain, her colonies or dependencies, between the twentieth day of May and the eleventh of June, one thousand eight hundred and nine, shall be exempted from all the forfeitures and penalties incurred in consequence of any violation of any of the provisions of the said act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies.

Approved, June 28, 1809.

An Act supplementary to the act, entitled "An act making provision for the support of public credit, and for the redemption of the public debt."

Be it enacted, &c., That the powers vested in the Commissioners of the Sinking Fund, by the tenth section of the act to which this act is a supplement, shall extend to all the cases of reimbursement of any instalments or parts of the capital, or principal, of the public debt now existing, which may become payable according to law. And, in every case in which a loan may be made accordingly, it shall be lawful for such loan to be made of the Bank of the United States, anything in any act of Congress to the contrary notwithstanding.

Approved, June 28, 1809.

An Act making an appropriation to finish and furnish the Senate Chamber, and for other purposes.

Be it enacted, &c., That, to defray the expenses of finishing and furnishing the permanent Senate Chamber, its committee rooms, lobbies, and other apartments, the sum of fifteen thousand dollars is appropriated, to be paid out of any moneys in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted*, That, to de-

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fray the expense incurred in fitting up the temporary Senate Chamber, and repairing and providing articles of furniture, the further sum of sixteen hundred dollars be appropriated, the same to be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, June 28, 1809.

An Act to suspend for a limited time the recruiting service.

Be it enacted, &c., That so much of the act, entitled "An act to raise for a limited time an additional military force," as authorizes the enlisting of men for the term of five years, unless sooner discharged, be and the same is hereby suspended until twenty days after the next meeting of Congress.

Approved, June 28, 1809.

An Act making appropriations for defraying the expense of stationery, printing, and all other contingent expenses of the Senate and House of Representatives, during the present session of Congress.

Be it enacted, &c., That, for defraying the expense of stationery, printing, and all other contingent expenses of the Senate and House of Representatives, during the present session of Congress, the sum of nine thousand dollars be and the same hereby is appropriated, payable out of any money in the Treasury not otherwise appropriated.

Approved, June 28, 1809.

An Act authorizing the accounting officers of the Treasury Department to give credit to certain collectors of the customs for allowances paid by them to the owners and crews of fishing vessels.

Be it enacted, &c., That the accounting officers of the Treasury Department be and they are hereby authorized, in settling the accounts of the collectors of the customs, to give them credit for the respective sums which have been or may be paid for allowances to the owners and crews of fishing vessels, in lieu of drawback of the duties paid on the salt used by the same, to the thirty-first of December, one thousand eight hundred and seven.—Approved, June 28, 1809.

An Act concerning the Naval Establishment.

Be it enacted, &c., That the President of the United States, in the event of a favorable change in our foreign relations, be and he is hereby authorized to cause to be discharged from actual service, and laid up in ordinary, such of the frigates and public armed vessels, as, in his judgment, a due regard to the public security and interest will permit.

SEC. 2. *And be it further enacted,* That so much of the first section of an act, entitled "An act to authorize the employment of an additional force," passed at the last session of Congress, as requires the public armed vessels to be stationed at such ports and places on the seacoast, or to cruise on the seacoast of the United States and Territories thereof, be and the same is hereby repealed.—Approved, June 28, 1809.

ACTS PASSED AT THE SECOND SESSION.

An Act to authorize the transportation of certain documents free of postage.

Be it enacted, &c., That the members of Congress, the Secretary of the Senate, and the Clerk of the House of Representatives, be and they are hereby respectively authorized to transmit, free of postage, the Message of the President of the United States, of the twenty-ninth of November, one thousand eight hundred and nine, and the documents accompanying the same, printed by order of the Senate, and by order of the House of Representatives, to any post office within the United States, and Territories thereof, to which they may direct; any law to the contrary notwithstanding.

Approved, December 9, 1809.

An Act supplemental to an act, entitled "An act extending the right of suffrage in the Indiana Territory, and for other purposes."

Be it enacted, &c., That the Governor of the Indiana Territory, for the time being, be and he is hereby authorized and empowered to apportion

the Representatives among the several counties in said Territory, as he shall think proper, having regard to the numbers limited in the fourth section of the act to which this is a supplement, and to issue his writ for the election of such Representatives agreeably to the apportionment which he may make, at such time as he shall deem most convenient for the citizens of the several counties in said Territory.

SEC. 2. *And be it further enacted,* That so soon as the Legislature of the said Territory shall be convened, the number of Representatives in each county thereof shall be regulated by the General Assembly.

SEC. 3. *And be it further enacted,* That when any vacancy shall occur in the Legislative Council, by death, resignation or removal from office, or when from either of said causes there shall be no Delegate from said Territory to the Congress of the United States, the Governor shall in either case be authorized to issue his proclamation, directing an election to be held to supply such vacancy according to law.

Approved, December 15, 1809.

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An Act extending the time for issuing and locating military land warrants.

Be it enacted, &c., That the Secretary of War be authorized to issue military land warrants to such persons as have or shall, before the first day of March, one thousand eight hundred and thirteen, produce to him satisfactory evidence of the validity of their claims; which warrants, with those heretofore issued and not yet satisfied, shall and may be located in the names of the holders or proprietors thereof, prior to the first day of October, one thousand eight hundred and thirteen, on any unlocated parts of the fifty quarter townships and the fractional quarter townships, reserved by law for original holders of military land warrants.

Approved, December 19, 1809.

An Act to revive and continue in force, for a further time, the first section of the act, entitled "An act further to protect the commerce and seamen of the United States, against the Barbary Powers."

Be it enacted, &c., That so much of the act passed on the twenty-fifth day of March, one thousand eight hundred and four, entitled "An act further to protect the commerce and seamen of the United States, against the Barbary Powers," as is contained in the first section of the said act, (and which was revived and continued in force, for the time therein mentioned, by an act, entitled "An act to revive and continue in force, for a further time, the first section of the act, entitled 'An act further to protect the commerce and seamen of the United States, against the Barbary Powers,' passed the tenth day of January, one thousand eight hundred and nine,) be, and the same hereby is revived and continued in force, until the fourth day of March, one thousand eight hundred and eleven: *Provided however,* That the additional duty laid by the said section, shall be collected on all such goods, wares, and merchandise, liable to pay the same, as shall have been imported previous to that day.

Approved, January 12, 1810.

An Act in addition to the "Act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio."

Be it enacted, &c., That, in addition to the unexpended balance of the sum heretofore appropriated for the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio, the sum of sixty thousand dollars be and the same is hereby appropriated, and to be expended under the direction of the President of the United States, in making said road between Cumberland, in the State of Maryland, and Brownsville, in the State of Pennsylvania, commencing at Cumberland; which sum of sixty thousand dollars, shall be paid out of the fund reserved for laying out and making roads to the State of Ohio, by virtue of the seventh section of an act, passed on the thirtieth day of April, one thousand eight hundred and two, entitled "An act to enable the people of the eastern division of

the Territory northwest of the river Ohio, to form a constitution and State Government, and for the admission of such State into the Union on an equal footing with the original States, and for other purposes."

Approved, February 14, 1810.

An Act to prescribe the mode in which application shall be made for the purchase of land at the several land offices; and for the relief of Joab Garret.

Be it enacted, &c., That, from and after the first day of June next, every person making application at any of the land offices of the United States, for the purchase at private sale of a tract of land, shall produce to the register a memorandum in writing, describing the tract which he shall enter, by the proper number of the section, half section, or quarter, (as the case may be,) and of the township and range, subscribing his name thereto, which memorandum the register shall file and preserve in his office.

SEC. 2. *And be it further enacted,* That Joab Garret shall be permitted to withdraw his entry, made on the second day of September, one thousand eight hundred and seven, at the land office at Vincennes, from the northwest quarter section number two, township number seven, south range number seven west; and the money paid by him, on the said entry, shall be placed to his credit, on any purchase he shall or may have made of public land in the same district.

Approved, February 24, 1810.

An Act further to provide for the refugees from the British provinces of Canada and Nova Scotia, and for other purposes.

Be it enacted, &c., That all persons having claims under the resolutions of Congress, passed the twenty-third day of April, one thousand seven hundred and eighty-three, and the thirteenth of April, one thousand seven hundred and eighty-five, as refugees from the British provinces of Canada and Nova Scotia, shall transmit to the War Office, within two years after the passing of this act, a just and true account of their claims to the bounty of Congress.

SEC. 2. *And be it further enacted.* That no other person shall be entitled to the benefits of the provisions of this act, than those of the following descriptions, or their widows and heirs, viz: First, those heads of families and single persons, not members of any such families, who were residents in one of the provinces aforesaid, prior to the fourth day of July, one thousand seven hundred and seventy-six, and who abandoned their settlements, in consequence of having given aid to the united colonies or States, in the Revolutionary war, against Great Britain, or with intention to give such aid, and continued in the United States, or in their service during the said war, and did not return to reside in the dominions of the King of Great Britain, prior to the twenty-fifth day of November, one thousand seven hundred and eighty three. Secondly, The widows and heirs of all such persons as were actu-

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ally residents as aforesaid, who abandoned their settlements as aforesaid, and died within the United States, or in their service during the said war; and thirdly. All persons who were members of families at the time of their coming into the United States, and who during the war entered into their service.

SEC. 3. *And be it further enacted*, That the proof of the several circumstances necessary to entitle the applicants to the benefits of this act, may be taken before a judge of the supreme or district court of the United States, or a judge of the supreme or superior court, or the first justice or first judge of the court of common pleas, or county court of any State.

SEC. 4. *And be it further enacted*, That at the expiration of fifteen months from and after the passing of this act, and from time to time thereafter, it shall be the duty of the Secretary for the Department of War, to lay such evidence of claims as he may have received, before the Secretary and Comptroller of the Treasury, and with them proceed to examine the testimony, and give their judgment, what quantity of land ought to be allowed to the individual claimants, in proportion to the degree of their respective services, sacrifices, and sufferings, in consequence of their attachment to the cause of the United States; allowing to those of the first class a quantity not exceeding one thousand acres and to the last class a quantity not exceeding one hundred, making such intermediate classes as the resolutions aforesaid and distributive justice may in their judgment require, and make report thereof to Congress. And in case any such claimant shall have sustained such losses and sufferings, or performed such service for the United States, that he cannot justly be classed in any one general class, a separate report shall be made of his circumstances, together with the quantity of land that ought to be allowed him, having reference to the foregoing ratio: *Provided*, That in considering what compensation ought to be made by virtue of this act, all grants, except military grants, which may have been made by the United States, shall be considered at the just value, thereof, at the time the same were made respectively, either in whole or in part, as the case may be, a satisfaction to those who may have received the same: *Provided also*, That no claim under this law shall be assignable, until after report made to Congress as aforesaid, and until the said lands be granted to the persons entitled to the benefit of this act.

SEC. 5. *And be it further enacted*, That all claims in virtue of said resolutions of Congress, which shall not be exhibited as aforesaid, within the time by this act limited, shall forever thereafter be barred: *Provided*, That no patent shall be issued to any person who may hereafter establish his claim under the said act, until he produce satisfactory evidence, to the Secretary of the Treasury, that he is at the time then being, a resident within the United States.

Approved, February 24, 1810.

An Act making appropriations for the support of Government during the year one thousand eight hundred and ten.

Be it enacted, &c. That, for the expenditure of the civil list, in the present year, including the contingent expenses of the several departments and offices; for the compensation of the several loan officers and their clerks, and for books and stationery for the same; for the payment of annuities and grants; for the support of the Mint Establishment; for the expense of intercourse with foreign nations; for the support of lighthouses, beacons, buoys, and public piers; for defraying the expenses of surveying the public lands, and for satisfying certain miscellaneous claims, the following sums be, and the same hereby are respectively appropriated, that is to say:

For compensation granted by law to the members of the Senate and House of Representatives, their officers and attendants, estimated for a session of four months and a half continuance, two hundred and one thousand four hundred and twenty-five dollars:

For the expense of fire wood, stationery, printing, and all other contingent expenses of the two Houses of Congress, thirty-four thousand dollars:

For all contingent expenses of the library of Congress, and for the Librarian's allowance for the year one thousand eight hundred and ten, eight hundred dollars:

For compensation to the President and Vice President of the United States, thirty thousand dollars:

For compensation to the Secretary of State, clerks, and persons employed in that department, including the sum of one thousand four hundred and seventy-eight dollars for compensation to his clerks, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, fourteen thousand and thirty-eight dollars:

For the incidental and contingent expenses of the said department, one thousand three hundred and fifty dollars:

For printing and distributing the laws of the first and second session of the eleventh Congress, and printing the laws in newspapers, six thousand two hundred and fifty dollars:

For compensation to the Secretary of the Treasury, clerks, and persons employed in his office, including the sum of one thousand dollars for clerk hire, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, sixteen thousand seven hundred dollars:

For the expense of translating foreign languages, allowance to the person employed in transmitting passports and sea-letters, and for stationery in the office of the Secretary of the Treasury, one thousand dollars:

For compensation to the Comptroller of the Treasury clerks, and persons employed in his office, including the sum of one thousand six hundred and thirty-nine dollars for compensation

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to his clerks, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, fourteen thousand six hundred and sixteen dollars:

For expense of stationery, printing, and incidental and contingent expenses of the Comptroller's office, eight hundred dollars:

For compensation to the Auditor of the Treasury, clerks, and persons employed in his office, twelve thousand two hundred and twenty-one dollars:

For expense of stationery, printing, and incidental and contingent expenses of the Auditor's office, five hundred dollars:

For compensation to the Treasurer, clerks, and persons employed in his office, six thousand two hundred and twenty-seven dollars and forty-five cents:

For expense of stationery, printing and incidental and contingent expenses in the Treasurer's office, three hundred dollars:

For compensation to the Register of the Treasury, clerks, and persons employed in his office, sixteen thousand and fifty-two dollars and two cents:

For compensation to the messenger and door-keeper of the Register's office, for stamping and arranging the ship registers, ninety dollars:

For expense of stationery, printing, and all other incidental and contingent expenses in the Register's office, including books for the public stocks, and for the arrangement of the marine records, two thousand eight hundred dollars:

For fuel and other contingent and incidental expenses of the Treasury Department, four thousand dollars:

For defraying the expense of printing and stating the public accounts for the year one thousand eight hundred and ten, one thousand two hundred dollars:

For the purchase of books, maps, and charts, for the use of the Treasury Department, four hundred dollars:

For compensation to a superintendent employed to secure the buildings and records of the Treasury Department, during the year one thousand eight hundred and ten, including the expense of two watchmen, the repairs of two fire engines, buckets, lanterns, and other incidental and contingent expenses, one thousand one hundred dollars:

For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars:

For compensation to the Secretary of War, clerks, and persons employed in his office, eleven thousand two hundred and fifty dollars:

For expense of fuel, stationery, printing and other contingent expenses of the office of the Secretary of War, one thousand dollars:

For compensation to the Accountant of the War Department, clerks, and persons employed in his office, ten thousand nine hundred and ten dollars:

For contingent expenses in the office of the Accountant of the War Department, one thousand dollars:

For compensation to the clerks employed in the Paymaster's office, three thousand four hundred dollars:

For contingent expenses in the said office, two hundred dollars:

For compensation of additional clerks in the office of the Superintendent of Indian trade, eight hundred dollars:

For compensation to the Purveyor of Public Supplies, clerks, and persons employed in his office, and for expense of stationery, store rent, and fuel for the said office, four thousand six hundred dollars:

For compensation to the Secretary of the Navy, clerks, and persons employed in his office, nine thousand eight hundred and ten dollars:

For expense of fuel, stationery, printing, and other contingent expenses in the said office, two thousand dollars:

For compensation to the Accountant of the Navy, clerks, and persons employed in his office, ten thousand four hundred and ten dollars:

For contingent expenses in the office of the Accountant of the Navy, one thousand dollars:

For compensation to the Postmaster General, Assistant Postmaster General, clerks, and persons employed in the Postmaster General's office, including the sum of one thousand five hundred and forty-five dollars for compensation to clerks, in addition to the sum allowed by the act of the twenty-first of April, one thousand eight hundred and six, sixteen thousand dollars:

For expense of fuel, candles, house rent for the messenger, stationery, chests, &c., pertaining to the Postmaster General's office, two thousand five hundred dollars:

For compensation to the several loan officers, thirteen thousand two hundred and fifty dollars:

For compensation to the clerks of the Commissioners of Loans, and for allowances to certain loan offices, in lieu of clerk hire, and to defray the authorized expense of the several loan offices, fifteen thousand dollars:

For compensation to the Surveyor General and his clerks, three thousand two hundred dollars:

For compensation to the Surveyor of the lands south of the State of Tennessee, clerks employed in his office, and for stationery and other contingencies, three thousand two hundred dollars.

For compensation to the officers of the Mint: The Director, two thousand dollars:

The Treasurer, one thousand two hundred dollars:

The Assayer, one thousand five hundred dollars:

The Chief Coiner, one thousand five hundred dollars:

The Melter and Refiner, one thousand five hundred dollars:

The Engraver, one thousand two hundred dollars:

One clerk at seven hundred dollars; and two clerks at five hundred dollars each, one thousand dollars:

For wages to the persons employed in the dif-

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ferent branches of melting, coining, carpenter's, millwright's, and smith's work, including the sum of one thousand dollars per annum, allowed to an assistant coiner and die-forger, who also oversees the execution of the iron work, and of six hundred dollars per annum allowed to an assistant engraver, eight thousand dollars:

For repairs of furnaces, cast rollers and screws, timber, bar-iron, lead, steel, potash, and for all other contingencies of the Mint, two thousand seven hundred and seventy-five dollars.

For compensation to the Governor, Judges, and Secretary of the Territory of Orleans, thirteen thousand dollars:

For expense of stationery and other contingent expenses of said Territory, three hundred and fifty dollars:

For compensation to the Governor, Judges, and Secretary of the Mississippi Territory, seven thousand eight hundred dollars:

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars:

For compensation to the Governor, Judges, and Secretary of the Indiana Territory, six thousand six hundred dollars:

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars:

For compensation to the Governor, Judges, and Secretary of the Michigan Territory, six thousand six hundred dollars:

For expense of stationery, office rent, and other contingent expenses of the said Territory, three hundred and fifty dollars:

For compensation to the Governor, Judges, and Secretary of the Louisiana Territory, six thousand six hundred dollars:

For expense of stationery, office rent, and other contingent expenses of the said Territory, three hundred and fifty dollars:

For compensation to the Governor, Judges, and Secretary of the Illinois Territory, six thousand six hundred dollars:

For expense of stationery, office rent, and other contingent expenses of said Territory, three hundred and fifty dollars:

For the discharge of such demands against the United States, on account of the civil department, not otherwise provided for, as shall have been admitted in a due course of settlement at the Treasury, two thousand dollars:

For additional compensation to the clerks in the several departments of State, Treasury, War, and Navy, and of the General Post Office, not exceeding for each department respectively, fifteen per centum, in addition to the sums allowed by the act, entitled "An act to regulate and fix the compensation of clerks, and to authorize the laying out certain public roads, and for other purposes," thirteen thousand two hundred and sixty-nine dollars and thirty-two cents:

For compensation granted by law to the Chief Justice, the Associate Judges and District Judges of the United States, including the Chief Justice and two Associate Judges for the District of Co-

lumbia; to the Attorney General, and to the District Judge of the Territory of Orleans, fifty-nine thousand four hundred dollars:

For the like compensation granted to the several District Attorneys of the United States, three thousand four hundred dollars:

For compensations granted to the several Marshals for the districts of Maine, New Hampshire, Vermont, New Jersey, North Carolina, Kentucky, Ohio, East and West Tennessee, and Orleans, two thousand two hundred dollars:

For defraying the expenses of the Supreme, Circuit, and District Courts of the United States, including the District of Columbia, and of jurors and witnesses, in aid of the funds arising from fines, forfeitures, and penalties, and for defraying the expenses of prosecutions for offences against the United States, and for the safe-keeping of prisoners, forty thousand dollars:

For the payment of sundry pensions granted by the late Government, nine hundred and sixty dollars:

For the payment of the annual allowance to the invalid pensioners of the United States, from the fifth of March, one thousand eight hundred and ten, to the fourth of March, one thousand eight hundred and eleven, ninety-eight thousand dollars:

For the maintenance and support of light-houses, beacons, buoys and public piers, stake-ages of channels, bars, and shoals, and certain contingent expenses, sixty-eight thousand one hundred and thirty-one dollars and four cents:

For erecting a light-house on St. Simon's island, in Georgia, and placing a buoy or buoys on or near the bar of St. Simon's, being the balance of former appropriations carried to the surplus fund, nine thousand and fifty dollars:

For erecting a beacon and placing buoys near the entrance of Savannah river, being an expense incurred under the act of the sixteenth day of July, seventeen hundred and ninety-eight, (a former appropriation for the same object having been carried to the credit of the surplus fund,) two thousand four hundred and ninety-four dollars and eighty-nine cents:

For erecting light-houses at the mouth of the Mississippi river, and at or near the pitch of Cape Lookout, in North Carolina, being the amount of an additional appropriation carried to the surplus fund, fifty-five thousand dollars:

For building a light-house at Naushawn island, near Tarpaulin Cove, in Massachusetts, being a balance of former appropriation carried to the surplus fund, two thousand four hundred and seventy-five dollars:

For rebuilding the light-house on North island, at the entrance of Win yaw bay, in South Carolina, being the amount of appropriation carried to the surplus fund, twenty thousand dollars:

For fixing buoys and stakes in and along the channel in Win yaw bay, leading to the harbor of Georgetown, South Carolina, being the amount of appropriation carried to the surplus fund, one thousand five hundred dollars:

For erecting a light-house on Point Judith,

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Rhode Island, in addition to the appropriation heretofore made for that purpose, two hundred dollars:

For defraying the expense of surveying the public lands within the several Territories of the United States, thirty thousand dollars:

For repaying the Bank of the United States, a sum advanced to the late collector of New Orleans, to enable him to pay drawbacks, one hundred thousand dollars:

For expenses of intercourse with foreign nations, forty-nine thousand four hundred dollars:

For the contingent expenses of intercourse with foreign nations, fifty thousand dollars:

For expenses of intercourse with the Barbary Powers, fifty thousand dollars:

For the contingent expenses of intercourse with the Barbary Powers, fifty thousand dollars:

For the relief and protection of distressed American seamen, including the sum of twenty thousand dollars to reimburse the bankers of the United States in London, and others, sums heretofore advanced by them for this object, twenty-five thousand dollars:

For expenses of prosecuting claims and appeals in the courts of Great Britain, in relation to captures of American vessels, and defending causes elsewhere, six thousand dollars:

To enable the accounting officers of the Treasury formally to pass the accounts of Timothy Pickering, late Secretary for the Department of State, the sum of seventy-eight thousand five hundred and eighty-three dollars and eleven cents, being the amount of former appropriations of moneys received and expended by him in that department, by the application of surplusses in some articles and appropriations to others in which the appropriations were deficient:

For the discharge of such miscellaneous claims against the United States not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, four thousand dollars.

SEC. 2. *And be it further enacted*, That the several appropriations hereinbefore made, shall be paid and discharged out of the fund of six hundred thousand dollars, reserved by an act making provision for the debt of the United States, and out of any moneys in the Treasury not otherwise appropriated.

Approved, February 26, 1810.

An Act making appropriations for the support of the Navy of the United States, for the year one thousand eight hundred and ten.

Be it enacted, &c., That, for defraying the expenses of the Navy of the United States, for the year one thousand eight hundred and ten, the following sums be and the same are hereby respectively appropriated, that is to say:

For the pay and subsistence of the officers, and pay of the seamen, seven hundred and eighteen thousand one hundred and fifteen dollars.

For provisions, three hundred and fifty-three thousand six hundred and ten dollars and eighty-four cents.

For medicines, instruments, and hospital stores, sixteen thousand dollars.

For repairs of vessels, one hundred and fifty thousand dollars.

For freight, store rent, commissions to agents, and other contingent expenses, seventy thousand dollars.

For pay and subsistence of the marine corps, including provisions for those on shore and forage for the staff, one hundred and forty thousand one hundred and twenty dollars and forty cents.

For clothing for the same, thirty-eight thousand three hundred and ninety-four dollars and seventy cents.

For military stores for the same, one thousand three hundred and ninety-eight dollars and seventy-five cents.

For medicines, medical services, hospital stores, and all other expenses on account of the sick belonging to the marine corps, two thousand dollars.

For quartermasters' and barrackmasters' stores, officers' travelling expenses, armorers' and carpenters' bills, fuel, premiums for enlisting, musical instruments, bounty to music, and other contingent expenses of the marine corps, fifteen thousand dollars.

For the expenses of navy yards, comprising dock and other improvements, pay of superintendents, store-keepers, clerks, and laborers, seventy-five thousand dollars.

For ordnance and small arms, seventy-five thousand dollars.

SEC. 2. *And be it further enacted*, That the several sums specifically appropriated by this act, shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, March 2, 1810.

An Act making appropriations for the support of the Military Establishment of the United States, for the year one thousand eight hundred and ten.

Be it enacted, &c., That for defraying the expenses of the Military Establishment of the United States, for the year one thousand eight hundred and ten, for the Indian department, and for the expense of fortifications, arsenals, magazines, and armories, the following sums be and the same hereby are respectively appropriated, that is to say:

For the pay of the Army of the United States, eight hundred and sixty-nine thousand nine hundred and sixty-eight dollars.

For forage, sixty-four thousand six hundred and twenty-four dollars.

For subsistence, six hundred and eighty-five thousand five hundred and thirty-two dollars and five cents.

For clothing, two hundred and ninety-three thousand eight hundred and four dollars.

For bounties and premiums, thirty thousand dollars.

For the medical and hospital departments, fifty thousand dollars.

For camp equipage, fuel, tools, and transportation, two hundred and seventy thousand dollars.

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For ordnance, two hundred thousand dollars.

For fortifications, arsenals, magazines, and armories, including two thousand dollars for such a number of additional military store-keepers as may be required, two hundred and eighty-three thousand five hundred and seventy-four dollars and seventy-five cents.

For purchasing maps, plans, books, and instruments, two thousand five hundred dollars.

For contingencies, fifty thousand dollars.

For the salary of clerks employed in the military agents' offices, and the office of inspector of the army, three thousand five hundred dollars.

For the Indian department, one hundred and forty-six thousand six hundred dollars.

SEC. 2. *And be it further enacted*, That the several sums specifically appropriated by this act, shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, March 2, 1810.

An Act for the appointment of an additional Judge, and extending the right of suffrage to the citizens of Madison county, in the Mississippi Territory,

Be it enacted, &c., That the citizens of Madison county, in the Mississippi Territory, qualified according to law, be and they are hereby authorized to elect one representative to the General Assembly of said Territory, and also to vote for one Delegate from said Territory, to the Congress of the United States, which election shall be held at the same time and in the same manner as is or may be provided by law for the elections in the several counties of said Territory.

SEC. 2. *And be it further enacted*, That an additional judge shall be appointed for the Mississippi Territory, who shall reside in said county of Madison, and have the same compensation which is by law allowed to the other judges of said Territory, and shall possess and exercise the same powers and jurisdiction within said county which are possessed and exercised in the county of Washington, in said Territory, by the judge appointed by virtue of an act, entitled "An act for the appointment of an additional judge for the Mississippi Territory and for other purposes," passed the twenty-seventh of March, one thousand eight hundred and four.

SEC. 3. *And be it further enacted*, That all final judgments and decrees, rendered in the superior courts of said counties of Washington and Madison, may be re-examined and reversed or affirmed, by the superior court of Adams county in said Territory, upon a writ of error issued from said superior court; which said superior court is hereby empowered, upon the reversal of any judgment or decree of said courts of Washington and Madison counties, to render such judgment as the court from whence the cause may have been removed ought to have rendered; except where a jury may be requisite to try issues or assess damages. In which cases the cause shall be remanded to the court where it originated; there to be proceeded in. And said superior court of Adams county, when sitting on

the trial of any cause removed as aforesaid, shall be composed of not less than two judges.

SEC. 4. *And be it further enacted*, That the Legislature of said Territory shall have power, and is hereby authorized, to establish a superior court in each county, which has been or may be formed within the bounds which compose the former district or county of Washington, to be holden by the judge who holds the superior court of Washington county in said Territory, which courts and the courts of Madison county to be holden at such times and places as said Legislature may direct. And all final judgments and decrees to be rendered by any superior court so established, may be re-examined and reversed or affirmed in the manner prescribed by the third section of this act, and the conditions on which any writ of error shall be obtained, and all other proceedings relative thereto, may be regulated by said Legislature.

SEC. 5. *And be it further enacted*, That so much of the act, entitled "An act for the appointment of an additional judge for the Mississippi Territory, and for other purposes," passed the twenty-seventh day of March, one thousand eight hundred and four, as comes within the purview of this act, be and the same is hereby repealed.

Approved, March 2, 1810.

An Act for altering the time for holding the District Court in Ohio.

Be it enacted, &c., That the sessions of the district court for the district of Ohio, by law appointed to be holden at Chillicothe, in the said district, on the first Mondays in February, June, and October, shall hereafter be holden at Chillicothe on the second Mondays of September and January annually.

SEC. 2. *And be it further enacted*, That in all writs, process, and recognisances, which may have been made returnable, and all suits, causes, process, and proceedings, which may have been continued to the first Monday of June next, shall be and hereby are made returnable and continued over to the session of said court which shall be holden on the second Monday of September next, and shall be as valid and proceeded on in the same manner, at said September session of said court, as if such writs, process, recognisances, suits, causes, and proceedings, had been originally made returnable to, and continued to said September session of said court.

Approved, March 26, 1810.

An Act providing for the third Census, or enumeration of the inhabitants of the United States.

Be it enacted, &c., That the Marshals of the several districts of the United States and of the District of Columbia, and the Secretaries of the Mississippi Territory, of the Indiana Territory, of the Michigan Territory, of the Illinois Territory, of the Louisiana Territory, and of the Orleans Territory, respectively, shall be and they are hereby authorized and required, under the direc-

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tion of the Secretary of State, and according to such instructions as he shall give pursuant to this act, to cause the number of the inhabitants within their respective Districts and Territories to be taken, omitting in such enumeration Indians not taxed, and distinguishing free persons, including those bound to service for a term of years, from all others; distinguishing also the sexes and colors of free persons, and the free males under ten years of age; and those of ten years and under sixteen; those of sixteen and under twenty-six; those of twenty-six and under forty-five; those of forty-five and upwards. And distinguishing free females under ten years of age; those of ten years and under sixteen; those of sixteen and under twenty-six; those of twenty-six and under forty-five; those of forty-five and upwards. For effecting of which, the marshals and secretaries aforesaid shall have power, and hereby are respectively authorized and required, to appoint one or more assistants in each county and city, in their respective districts and Territories, residents of the county and city for which they shall be appointed, and shall assign a certain division of his district or Territory to each assistant, which division shall not consist of more than one county or city, but may consist of one or more towns, townships, wards, hundreds, or parishes, plainly and distinctly bounded by water-courses, mountains, and public roads, or other monuments. And the said enumeration shall be made by an actual inquiry at every dwelling house, or of the head of every family within each district, and not otherwise. The marshals or secretaries, as the case may be, and their assistants, shall respectively take an oath or affirmation, before some judge or justice of the peace resident within their respective districts or Territories, previous to their entering on the duties by this act required. The oath or affirmation of the marshal or secretary shall be as follows: "I, A B, marshal of the district of —, (or secretary of the Territory of —, as the case may be,) do solemnly swear, or affirm, that I will well and truly cause to be made a just and perfect enumeration and description of all persons resident within my district or Territory, and return the same to the Secretary of State, agreeably to the directions of an act of Congress, entitled 'An act providing for the third census or enumeration of the inhabitants of the United States,' according to the best of my ability." The oath or affirmation of an assistant shall be: "I, A B, do solemnly swear (or affirm) that I will make a just and perfect enumeration and description of all persons resident within the division assigned to me for that purpose, by the marshal of —, (or the secretary of the Territory of —, as the case may be,) and make due return thereof to the said marshal (or secretary) agreeably to the directions of an act of Congress, entitled 'An act providing for the third census or enumeration of the inhabitants of the United States,' according to the best of my abilities." The enumeration shall commence on the first Monday of August next, and shall close within nine calendar months thereafter. The several

assistants shall, within the said nine months, transmit to the marshals or secretaries, by whom they shall be respectively appointed, accurate returns of all persons, except Indians not taxed, within their respective divisions; which returns shall be made in a schedule distinguishing in each county, city, town, township, hundred, ward, or parish, the several families, by the names of their master, mistress, steward, overseer, or other principal person therein, in the manner following, that is to say: The number of persons within my division, consisting of —, appears in a schedule hereto annexed, subscribed by me this — day of — A B, assistant to the marshal of —, or secretary of —.

Schedule of the whole number of persons within the division allotted to A B.

Name of the county, parish, township, town, or city, where the family reside.
Names of heads of family.
Free white males under ten years of age.
Free white males of ten, and under sixteen.
Free white males of sixteen, and under twenty-six, including heads of families.
Free white males of twenty-six, and under forty-five, including heads of families.
Free white males of forty-five and upwards, including heads of families.
Free white females under ten years of age.
Free white females of ten years, and under sixteen.
Free white females of sixteen, and under twenty-six, including heads of families.
Free white females of twenty-six, and under forty-five, including heads of families.
Free white females of forty-five and upwards, including heads of families.
All other free persons, except Indians not taxed.
Slaves.

SEC. 2. *And be it further enacted*, That every assistant failing or neglecting to make a proper return, making a false return of the enumeration to the marshal, or the secretary, (as the case may be,) within the time limited by this act, shall forfeit the sum of two hundred dollars.

SEC. 3. *And be it further enacted*, That the marshals and secretaries shall file the several returns aforesaid, and also an attested copy of the aggregate amount hereinafter directed to be transmitted by them respectively to the Secretary of State, with the clerks of their respective districts, or superior courts, (as the case may be,) who are hereby directed to receive and carefully preserve the same. And the marshals and secretaries, respectively, shall, on or before the first day of March, one thousand eight hundred and eleven, transmit to the Secretary of State the aggregate amount of each description of persons within their respective districts or Territories. And every marshal or secretary failing to file the returns of his assistant, or any of them, with the clerks of their respective courts as aforesaid, or failing

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to return the aggregate amount of each description of persons in their respective districts or Territories, as required by this act, and as the same shall appear from said returns to the Secretary of State, within the time limited by this act, shall for every such offence, forfeit the sum of eight hundred dollars; all which forfeitures shall be recoverable in the courts of the districts or Territories where the said offences shall be committed, or in the circuit courts to be held within the same, by action of debt, information or indictment; the one-half thereof to the use of the United States, and the other half to the informer; but where the prosecution shall be first instituted on behalf of the United States, the whole shall accrue to their use. And for the more effectual discovery of such offences, the judges of the several district courts in the several districts, and of the Supreme Courts in the Territories of the United States, as aforesaid, at their next sessions, to be held after the expiration of the time allowed for making the returns of the enumeration hereby directed to the Secretary of State, shall give this act in charge to the grand juries in their respective courts, and shall cause the returns of the several assistants and the said attested copy of the aggregate amount aforesaid to be laid before them for their inspection.

SEC. 4. *And be it further enacted*, That every assistant shall receive at the rate of one dollar for every hundred persons by him returned, where such persons reside in the country; and where such persons reside in a city or town, containing more than three thousand persons, such assistant shall receive at the rate of one dollar for every three hundred persons; but where, from the dispersed situation of the inhabitants, in some divisions, one dollar for every hundred persons shall be insufficient, the marshals or secretaries, with the approbation of the judges of their respective districts or Territories, may make such further allowance to the assistants in such divisions as shall be deemed an adequate compensation; provided the same does not exceed one dollar and twenty-five cents for every fifty persons by them returned. The several marshals and secretaries shall receive as follows; The marshal of the district of Maine, two hundred and fifty dollars; the marshal of the district of New Hampshire, two hundred and fifty dollars; the marshal of the district of Massachusetts, three hundred dollars; the marshal of the district of Rhode Island, one hundred and fifty dollars; the marshal of the district of Connecticut, two hundred dollars; the marshal of the district of Vermont, two hundred and fifty dollars; the marshal of the district of New York, four hundred dollars; the marshal of the district of New Jersey, two hundred dollars; the marshal of the district of Pennsylvania, four hundred dollars; the marshal of the district of Delaware, one hundred dollars; the marshal of the district of Maryland, three hundred dollars; the marshal of the district of Virginia, five hundred dollars; the marshal of the district of Kentucky, three hundred dollars;

the marshal of the district of North Carolina, three hundred and fifty dollars; the marshal of the district of South Carolina, three hundred dollars; the marshal of the District of Columbia, fifty dollars; the marshal for the district of Georgia, three hundred dollars; the marshal of the district of East Tennessee, one hundred and fifty dollars; the marshal of the district of West Tennessee, one hundred and fifty dollars; the marshal of the district of Ohio, two hundred dollars; the secretary of the Mississippi Territory, two hundred dollars; the secretary of Indiana Territory one hundred dollars; the secretary of the Michigan Territory, one hundred dollars; the secretary of the Illinois Territory, one hundred dollars; the secretary of the Territory of Orleans, one hundred and fifty dollars; the secretary of the Territory of Louisiana, one hundred dollars.

SEC. 5. *And be it further enacted*, That every person whose usual place of abode shall be in any family on the aforesaid first Monday of August next, shall be returned, as of such family; and the name of every person who shall be an inhabitant of any district or Territory, without a settled place of residence, shall be inserted in the column of the schedule which is allotted for the heads of families, in that division where he or she shall be, on the said first Monday of August next; and every person occasionally absent at the time of enumeration, as belonging to that place in which he or she usually resides in the United States.

SEC. 6. *And be it further enacted*, That each and every free person more than sixteen years of age, whether heads of families or not, belonging to any family within any division, district, or Territory, made or established within the United States, shall be and hereby is obliged to render to such assistant of the division, if required, a true account, to the best of his or her knowledge, of all and every person belonging to such family, respectively, according to the several descriptions aforesaid, on pain of forfeiting twenty dollars, to be sued for and recovered in action of debt, by such assistant, the one-half for his own use, and the other half for the use of the United States.

SEC. 7. *And be it further enacted*, That each and every assistant, previous to making his return to the marshal or secretary, (as the case may be,) shall cause a correct copy, signed by himself, of the schedule containing the number of inhabitants within his division, to be set up at two of the most public places within the same, there to remain for the inspection of all concerned; for each of which copies the said assistant shall be entitled to receive two dollars, provided proof of the schedule having been so set up and suffered to remain, shall be transmitted to the marshal or secretary, (as the case may be,) with the return of the number of persons; and in case any assistant shall fail to make such proof to the marshal or secretary, as aforesaid, he shall forfeit the compensation by this act allowed him.

SEC. 8. *And be it further enacted*, That the Secretary of State shall be and hereby is authorized and required to transmit to the marshals of

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the several States, and to the secretaries aforesaid, regulations and instructions pursuant to this act, for carrying the same into effect, and also the forms contained therein of the schedule to be returned, and proper interrogatories to be administered by the several persons to be employed therein.

SEC. 9. *And be it further enacted*, That in case there shall be no secretary in either of the Territories of the United States, the duties directed by this act to be performed by the secretary may be performed by the Governor of such Territory, who shall receive the same compensation to which the secretary would be entitled for the performance of said duties, and be subject to the same penalties.

Approved, March 26, 1810.

An Act to prevent the issuing of Sea-Letters except to certain vessels.

Be it enacted, &c., 'That, from and after the thirtieth of June next, no sea-letter or other document certifying or proving any ship or vessel to be the property of a citizen or citizens of the United States, shall be issued except to ships or vessels duly registered, or enrolled and licensed as ships or vessels of the United States, or to vessels which at that time shall be wholly owned by citizens of the United States, and furnished with or entitled to sea-letters or other custom-house documents, any law or laws heretofore passed to the contrary notwithstanding: *Provided nevertheless*, That no sea-letter shall be issued to any vessel which shall not at this time be furnished or entitled to a sea-letter, unless such vessel shall return to some port or place in the United States or Territories thereof on or before the said thirtieth day of June next: *Provided nevertheless*, That no sea-letter or other document, certifying or proving any ship or vessel to be the property of a citizen or citizens of the United States, shall be issued to any vessel now abroad, which shall not at this time be furnished or entitled to a sea-letter, unless such vessel shall arrive at some port or place in the United States or Territories thereof, on or before the said thirtieth day of June next; and provided that nothing herein contained shall be construed to operate against any such vessel or vessels that now are, or may be, prior to the said thirtieth of June, detained abroad by the authority of any foreign Power.

Approved, March 26, 1810.

An Act making an appropriation for the purpose of trying the practical use of the Torpedo or sub-marine explosion.

Be it enacted, &c., That a sum not exceeding five thousand dollars be, and the same is hereby appropriated, payable out of any money in the Treasury not otherwise appropriated, to defray the expense which shall be incurred in any actual experiments, when the President of the United States shall deem it expedient to cause such experiments to be made, which shall be made under the immediate direction of the Secretary of

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the Navy, for the purpose of ascertaining with precision how far the torpedo or sub-marine explosions may be usefully employed as engines of war, who is hereby directed to report to Congress the result of the experiment with his opinion thereon.

Approved, March 30, 1810.

An Act to make public a road in Washington county, in the District of Columbia.

Be it enacted, &c., That the road heretofore opened by the consent of the owners of the land over which the same passed, from the line of the District of Columbia, through the land of John Masters and John L. Naylor, to the lower bridge over the Eastern Branch of Potomac river, shall be, and is hereby declared to be a public highway; and shall be kept in repair, as other public roads in Washington county, in the District of Columbia, are kept in repair.

SEC. 2. *And be it further enacted*, That three commissioners, to be mutually appointed by the Levy Court of the county of Washington, in the District of Columbia, and the proprietors of the land over which the said road does or may pass or be laid out, be and they are hereby appointed commissioners, and they, or a majority of them, are hereby authorized and empowered to review the said road, and to cause the same to be surveyed and laid out, not exceeding thirty feet in width, and to cause a plot to be made thereof, and return the same, under their hands and seals, to the clerk of Washington county, to be by him recorded among the land records of said county.

SEC. 3. *And be it further enacted*, That the said commissioners, or a majority of them, shall ascertain and value the damage which any person, through whose land the said road passes, may sustain, by making the said road a public highway, and shall return to the Levy Court of Washington county a certificate of such valuation, the amount of which shall be levied by said court on the assessable property of said county and the City of Washington, and paid over to the person or persons entitled to receive the same.

Approved, March 30, 1810.

An Act to alter and amend an act, entitled "An act providing for the third census or enumeration of the inhabitants of the United States," passed the twenty-sixth day of March, one thousand eight hundred and ten.

Be it enacted, &c., That the enumeration mentioned in the first section of the act hereby amended, shall close within five months from the first Monday in August next, and the assistants shall make their returns to the marshals and secretaries within the said five months, anything in the said act to the contrary notwithstanding.

Approved, April 12, 1810.

An Act to incorporate a company for making certain turnpike roads in the District of Columbia.

Be it enacted &c., That Daniel Carrol, of Duddington, George W. P. Custis, Thomas Fenwick,

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John Tayloe, Samuel Harrison Smith, Daniel Brent, Daniel Rapine, Frederick May, Elias B. Caldwell, William Brent, James D. Barry, and John Law, be, and they are hereby appointed and constituted a board of commissioners, a majority of whom to constitute a quorum, with full power to receive and enter in such book or books, as they may deem proper, by themselves or by their agents, subscriptions for raising a capital stock of sixty thousand dollars, in shares of one hundred dollars each, for the purpose of opening, graveling, and improving the following roads in the District of Columbia, to wit: One road from the boundary line of the City of Washington, to the boundary line of the District of Columbia, in the most direct and practicable route from the Capitol to Baltimore. One road from the boundary line of the City of Washington, to the boundary line of the District of Columbia, in the most direct and practicable route from the Capitol to Montgomery court-house; and one road from the western extremity of the causeway leading from Alexander's island to the boundary line of the District of Columbia, in the most direct and practicable route towards the Little river turnpike road, in the State of Virginia. The times, places, and manner of receiving and entering subscriptions, and the manner of authenticating powers of attorney, or other instruments of writing authorizing subscriptions to be made by any person or persons in the name of any other person or persons, to be ascertained by said board of commissioners, and duly advertised in such gazettes or public prints as they may deem expedient: *Provided*, That no subscription shall be received, unless the sum of ten dollars be first paid into the hands of such agent or other person as said commissioners may authorize to receive it.

SEC. 2. *And be it further enacted*, That when any number of persons shall have subscribed one hundred and fifty shares or more of the said stock, the said commissioners, or a majority of them, may, and, when the whole number of shares aforesaid shall be subscribed, shall give notice in some newspaper, printed in the District of Columbia, of a time and place to be appointed for the subscribers to proceed to organize the said corporation, at which time and place the said subscribers, by a majority of votes, to be delivered by ballots in person, or by proxy duly authorized, shall elect one president and four directors, to conduct the business of said company for one year, and until other such officers shall be chosen in their place; and, at that or any subsequent legal meeting of stockholders, may make such rules, orders, and regulations, not inconsistent with the Constitution and laws of the United States, as shall be necessary for the well being of the affairs of said company: *Provided always*, That no stockholder shall, in person or by proxy, have more than twenty-five votes at any election, or in determining any question arising at such meeting, whatever number of shares he or she may hold: and each stockholder, in person or by proxy, shall be entitled to one vote for every share by him or her held, not exceeding said number; and all persons

who may then be, or thereafter may become, the actual holders or proprietors of shares in the said capital stock, either as subscribers for the same, or as the legal representatives, successors, or assignees, of such subscribers, shall become one body politic and corporate, in deed and in law, by the name and style of the "President, Directors and Company of the Columbia Turnpike Roads;" and by the said name shall have perpetual succession, and all the privileges incident to a corporation, and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same by new subscriptions, if such enlargement shall be found necessary to fulfil the intent of this act, and of purchasing, taking, and holding, to them and their successors and assigns, in fee simple, or for any lesser estate, all such lands, tenements, hereditaments, and estate, real and personal, as shall be necessary or useful to them in the prosecution of their works, and of suing and being sued, of having a common seal, the same breaking and altering at pleasure, and of doing all and every other matter and thing, concerning the subject aforesaid, which a corporation or body politic may lawfully do.

SEC. 3. *And be it further enacted*, That the said company shall meet on the first Monday in January, in every year, at such place as shall be fixed by their by-laws, for the purpose of choosing such officers as aforesaid for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned by the president and directors aforesaid, at which annual or special meetings, they shall have full power and authority to do and perform any act by law allowed, and pertaining to the affairs of said company; and the president and directors for the time being, shall hold their offices until others shall be appointed in their places; and the said corporation shall not be deemed to be dissolved, by reason of any defect of officers, but if it should happen that there should be no president or directors competent to call a meeting of stockholders, the same may be called by any stockholder, for the purpose of electing such officers, giving thirty days' notice of the time and place of such meeting, by advertisement, in a newspaper printed in the City of Washington.

SEC. 4. *And be it further enacted*, That the president and directors shall procure printed certificates for all the shares of said stock, and shall deliver one such certificate, signed by the president, to each person, for every share by him or her subscribed and held, which certificate shall be transferrable, at his or her pleasure, in person or by attorney, in the presence of the president, clerk, or treasurer, of said company, who shall witness the same, subject however to all payments due or to grow due thereupon: and the assignee holding any such certificate, having caused the assignment to be entered in a book of the company to be kept for that purpose, shall be a member of said company, and for every certificate by him held shall be entitled to one share in the capital stock and estate of said company; and if any stockholder, after thirty days' public notice in a

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newspaper printed in the City of Washington, of the time and place appointed for the payment of any portion or dividend of the sum prescribed in said stock, shall neglect to pay the same for the space of thirty days after the time so appointed, the share or shares on which such delinquency has taken place may be sold at public auction, and transferred by them to any person or persons, willing to purchase for such price as can be obtained; or in case any proprietor shall fail to pay any instalment which shall be duly assessed, such instalment, or any part thereof that shall remain deficient or unpaid, may be recovered of the person or persons, so failing to pay, by warrant from a justice of the peace, if the amount shall not exceed twenty dollars, and if the sum so due shall exceed twenty dollars, the same may be recovered by motion, in the name of the said company, or ten days' notice, in any court of record in the county or district where the debtor may be found; or by action at law in the usual course of judicial proceedings, at the option of said president and directors; and in all such warrants, motions, or actions, the certificate of the clerk or recording officer of the said company shall be conclusive evidence of the defendant's being a member of the company, and *prima facie* evidence of the amount due on the share or shares held by such defendant.

Sec. 5. *And be it further enacted*, That the said president and directors shall meet at such times and places as shall be agreed upon for transacting their business; at which meetings any three members shall form a quorum, who, in the absence of the president, may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being met, they shall have full power and authority to appoint a treasurer and all other officers necessary or convenient, and agree with and appoint all such surveyors, intendants, artists, or other agents, as they shall judge necessary to carry on the intended works, and to fix their salaries, wages, or compensation; to direct and order the times, manner and proportions, when, and in which the stockholders shall pay moneys due on their respective shares; to draw orders on the treasurer for all moneys due from the said company, and generally to do and transact all such other matters and things as by the by-laws, rules, and regulations of said company, shall be required permitted.

Sec. 6. *And be it further enacted*, That upon application of the said president and directors of the said company to the circuit court of the District of Columbia, or to the judges thereof out of court, the said court or the judges, or any two of the judges thereof out of court, shall appoint three commissioners, not interested in any of the lands through which either of the said roads may be laid out, nor interested in the stock of the company hereby created, nor in the stock of any other turnpike company, who shall each receive from the said president, directors, and company, two dollars for every day they shall, respectively, be actually necessarily employed in or about the

affairs of the said company. And each of the said commissioners, before he proceeds to act as such, shall take and subscribe an oath or solemn affirmation, in the presence of a justice of the peace, "That he will well, faithfully, and impartially, according to the best of his skill and judgment, and without unnecessary delay, execute and perform all the duties required of him as a commissioner, under the sixth section of the act of Congress, entitled "An act to incorporate a company for making certain turnpike roads in the District of Columbia;" which oaths or affirmations, so subscribed and certified by the justice in whose presence they shall be severally taken and subscribed, shall be filed in the office of the clerk of the said circuit court, and enrolled among the land records of the county of Washington. And the said commissioners, or any two of them, being qualified as aforesaid, shall, upon the request of the said president and directors, cause to be surveyed, laid out, ascertained, described, and marked, by certain metes and bounds, each of the aforesaid turnpike roads described in the first section of this act, not less than sixty six feet in breadth, in such routes, tracts, or courses for the same, respectively, as in the best of their judgment will combine shortness of distance with the most convenient ground, and the smallest expense of money; and for this purpose it shall be lawful for them, and such agents, assistants, servants, or attendants as they may think proper to employ, to enter upon any of the lands through or near which the said roads, or either of them, may be laid out; having first given twenty days public notice, in some newspaper printed in the City of Washington, of the time and place of their entering on the said business of surveying and laying out each road respectively. And if any proprietor of any part of the lands, through which either of the said roads may be laid out, shall require compensation for so much of his or her said lands as may be occupied by the said roads, or either of them, or shall claim damages for or on account of the opening or laying out the said roads, or either of them, through his or her land, and if the said president and directors cannot agree with such proprietor respecting the same, then the said commissioners, at the request of either party, shall appoint a day and place to hear and decide upon such claim, and the amount of compensation and damages which such proprietor shall be entitled to receive from the said president, directors, and company therefor; first giving twenty days' notice to the adverse party, his or her agent or attorney in fact, or other legal representative, if either shall be within the District of Columbia; and if the party so notified shall fail to attend, or if the party shall be an infant under age, *non compos mentis*, *feme covert*, or absent out of the District of Columbia, and have no known agent, or other legal representative therein, then the said commissioners may proceed *ex parte* to hear and decide the same; and the award of them, or any two of them, made in writing, signed by them, or any two of them, shall by them be returned to the office of the clerk of the said

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court for the county of Washington, within ten days after such hearing; and a copy thereof shall, within ten days after such return, be served upon such of the parties as are resident in the District of Columbia; and if such award be not, at the session of the said circuit court, in the county of Washington, next after such return of the said award to the clerk's office, set aside on account of fraud or partiality in the said commissioners, the same shall be final and conclusive between the parties, and shall be recorded by the said clerk; and the sum so awarded being paid to the said clerk for the use of the person entitled to receive the same, the said land mentioned and described in the said award shall and may be taken and occupied as a turnpike road and public highway forever. And the said commissioners, upon completing the said survey of the said roads, or either of them, shall return a plat and certificate of such survey to the said clerk; and the same being accepted by the said court, shall be recorded by the said clerk, and thereupon the road so laid out shall be taken, used, and occupied as a turnpike road and public highway forever; and the said president, directors, and company may thereupon proceed to enter upon the same, and shall cause at least twenty-four feet in breadth, throughout the whole length thereof, to be made an artificial road, of stone, gravel, or other hard substance, of sufficient depth or thickness to secure a solid and firm road, with a surface as smooth as the materials will admit, and so nearly level, that it shall in no case rise or fall more than an angle of four degrees with a horizontal line; and the said road shall thereafter be kept in good and perfect repair; and wheresoever upon the said roads any bridge shall be deemed necessary, the same shall be built of sound and suitable materials. And in case either of the said commissioners should die, or refuse to act, or become incapacitated, or should be removed by the court for misconduct, the said court may appoint another in his place; and when, in the opinion of the said president and directors, either of the said roads shall be completed to the extent of twenty-four feet in breadth, the same shall be examined by the said commissioners, or any two of them; and if, in the opinion of them, or any two of them, the said road should have been completed to the extent of at least twenty-four feet in breadth, according to the meaning of this act, they shall certify the same to the said circuit court, or the judges thereof out of court; and their certificate being accepted by the said court, or any two judges thereof, and recorded, the said president and directors shall and may thereafter erect and fix such and so many gates and turnpikes, not exceeding two, upon and across each of the said roads, as shall be necessary and sufficient to collect the tolls hereinafter granted to the said company; and it shall be lawful for them to appoint such and so many toll-gatherers as they shall deem necessary to collect and receive of and from all and every person and persons using the said road or roads, the tolls and rates hereinafter mentioned, and to stop any person or persons riding, leading, or driving any

horses, mules, cattle, hogs, sheep, sulky, chair, chaise, phaeton, chariot, coach, cart, wagon, sleigh, sled, or any carriage of burden or pleasure from passing through the said gates until the said tolls shall be paid, that is to say: For the whole distance in length of the whole of the said roads, and so in proportion, as near as may be, for any less distance within the District of Columbia, viz., for every score of sheep, twenty cents; for every score of hogs, twenty cents; for every score of cattle, forty cents; and so in proportion for any greater or less number; for every horse or mule with a rider, twelve and an half cents; for every stage and wagon and two horses, thirty cents; for either carriage last mentioned with four horses, forty cents; for every led or driven horse or mule, six cents; for every sulky, chair, chaise, or carriage of pleasure with two wheels and one horse, twenty cents; for every coach, chariot, coachee, phaeton, or chaise, with four wheels and two horses, thirty-seven and an half cents; for any of the said carriages last mentioned, with four horses, fifty cents; for every other carriage of pleasure, under whatever name it may go, the like sums, according to the number of wheels and horses, in proportion aforesaid; for every sled or sleigh used as a carriage of pleasure, twelve and an half cents for each horse drawing the same; for every sled or sleigh used as a carriage of burden, eight cents for each horse drawing the same; for every cart or wagon, whose wheels do not exceed four inches in breadth, twelve and an half cents for each horse drawing the same; for every cart or wagon, whose wheels shall exceed in breadth four inches, and not exceed seven inches, six cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than seven inches, and not more than ten inches, five cents for every horse drawing the same; for every cart or wagon, the breadth of whose wheels shall be more than ten inches, and not exceed twelve inches, four cents for every horse drawing the same. And that all such carriages as aforesaid, to be drawn by oxen in the whole, or partly by oxen, or to be drawn by mules in whole or part, two oxen shall be estimated as equal to one horse, in charging all the aforesaid tolls, and every mule as equal to one horse. And it shall be also the duty of the said commissioners, after hearing all parties, to decide and award what proportion of the cost already incurred of making the causeway from Alexander's island to the main land, and of the road from the said causeway to the west end of the Washington bridge, shall be paid by the president, directors, and company of the Columbia turnpike roads, to the president and directors of the Washington and Alexandria Turnpike Company; and also, in what proportion the former company shall contribute and pay towards the future repairs and improvements of the said causeway and road; and the award of the said commissioners, or any two of them, so made, shall be returned to the office of the clerk of the said court for the county of Washington; and, being accepted by the said court, and recorded, shall be final and conclusive.

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SEC. 7. *And be it further enacted*, That, in all cases where stone, gravel, earth, or sand, shall be necessary for making or repairing either of the said roads, and the said president, directors, and company, of the Columbia turnpike roads, cannot agree for the same with the owner thereof, then, by application by the said president and directors, or any person authorized by them, to any one of the judges of the said circuit court, he may, if he see cause, by warrant under his hand and seal, command the marshal of the said district to summon a jury of thirteen disinterested persons, qualified to serve as petit jurors in the said circuit court, to meet at the place where such materials may be, on some day, not more than ten days after the date of such warrant, and to give the other party five days notice of the said time and place, if such party be found within the District of Columbia; and if any of the said jurors should fail to attend at the said time and place, the marshal may immediately summon talesmen in the place of those who are absent, and shall administer an oath to the said jurors and talesmen, as the case may be, justly and impartially to value the said materials, and to assess the damage which the owner thereof shall sustain by the taking thereof by the said president, directors, and company, of the Columbia turnpike roads; which valuation and assessment of damages made by the said jurors, or a majority of them, shall be signed by the said marshal and the jurors, or so many of them as shall agree thereto, and be returned by the marshal to the said clerk of the said court for the county of Washington, to be by him recorded, and shall be conclusive between the parties; and a copy thereof shall be delivered to each of the parties, who may be resident in the District, and the sum so awarded and assessed being paid to the said clerk of the said court, for the use of the party entitled thereto, the said president and directors may proceed to take and carry away the said materials so valued for the purposes aforesaid. And the said president, directors, and company, shall pay the said marshal five dollars for his service in summoning and impannelling the said jury, and taking and returning the said inquest, and two dollars to each of the jurors so sworn.

SEC. 8. *And be it further enacted*, That, for the purpose of ascertaining the weight that may be drawn along the said road, in any cart, wagon, or other carriage of burden, it shall and may be lawful for the said president, managers, and company, to erect and establish scales and weights at or near such and so many of the gates erected, or to be erected, in pursuance of this act, as they may think proper; and where there may seem reasonable cause to suspect that any cart, wagon, or other carriage of burden, carries a greater weight than is or shall be by law allowable, it shall be lawful for the toll-gatherers, or other persons in their service or employment, to prevent the same from passing such gate or turnpike, until such cart, wagon, or carriage of burden, shall be drawn into the fixed or erected scales at or near any such gate or turnpike, and the weight or burden drawn

therein ascertained by weighing: and if the person or persons driving, or having care or charge of any such cart, wagon, or other carriage of burden, shall refuse to drive the same into any such scales for the purpose aforesaid, the person or persons so refusing shall forfeit and pay to the said president, managers, and company, any sum not less than five dollars, nor more than eight dollars, to be recovered in the manner hereinafter mentioned.

SEC. 9. *And be it further enacted*, That no wagon, or other carriage with four wheels, the breadth of whose wheels shall not be four inches, shall be drawn along the said road with a greater weight thereon than three tons; that no such carriage, the breadth of whose wheels shall not be seven inches, or being six inches or more shall roll at least ten inches, shall be drawn along the said roads with more than five tons; that no such carriage, the breadth of whose wheels shall not be ten inches or more, or being less shall not roll at least twelve inches, shall be drawn along the said road, with more than eight tons; that no cart or other carriage with two wheels, the same breadth of wheels as the wagons aforesaid, shall be drawn along the said road with more than half the burden or weight aforesaid; and if any cart, wagon, or carriage of burden, whatsoever, shall be drawn along the said road, with a greater weight than is hereby allowed, the owner or owners of such carriage, if the excess of burden shall be three hundred weight or upwards, shall forfeit and pay four times the customary tolls for the use of the company: *Provided, always*, That it shall and may be lawful for the said company, by their by-laws, to alter any or all the regulations herein contained respecting the burdens or carriages to be drawn over the said road, and to substitute other regulations, if, upon experiment, such alterations shall be found conducive to the public good: *Provided, nevertheless*, That such regulations shall not lessen the burdens of carriages above described.

SEC. 10. *And be it further enacted*, That the president and directors of the said company shall keep, or cause to be kept, fair and just accounts of all moneys to be received by them from the said commissioners first herein named, and from the stockholders or subscribers to the said undertaking, on account of their several subscriptions or shares, and of all moneys by them to be expended, in the prosecution of their said work, and shall once, at least, in every year, submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges, and expenses, of effecting the same, shall be fully liquidated, paid, and discharged; and if upon such liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said roads, according to the true intent and meaning of this act, it shall and may be lawful for the said stockholders, being convened according to the provisions of this act or their by-laws and rules, to increase the amount

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to be paid on the shares from time to time to such extent as shall be necessary to accomplish the work, and to demand and receive the increased amount so to be required on such shares in like manner and under the like penalties as are hereinbefore provided for the original payments, or as shall be provided by their by-laws.

SEC. 11. *And be it further enacted*, That the said president and directors shall also keep, or cause to be kept, just and true accounts of all moneys to be received by their several collectors of tolls at the turnpike gates on the said roads, and shall make and declare a half yearly dividend of the clear profits and income thereof, all contingent costs and charges being first deducted, among all the holders of said stock, and shall publish the half yearly dividend aforesaid in some newspaper printed in the District of Columbia, and at the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

SEC. 12. *And be it further enacted*, That it shall be the duty of the said corporation to keep the said roads, as they are respectively completed, in good repair; and if, in neglect of their said duty, the said corporation shall at any time suffer the said roads to be out of repair, so as to be unsafe or inconvenient for passengers, the said corporation shall be liable to be presented for such neglect, before any court of competent jurisdiction, and upon conviction thereof, to pay to the United States a penalty not exceeding one hundred dollars, at the discretion of the court, and shall also be responsible for all damages which may be sustained by any person or persons in consequence of such want of repair, to be recovered in an action of trespass on the case in any court competent to try the same: *Provided always, and it is further enacted*, That, whenever the net proceeds of tolls collected on said roads shall amount to a sum sufficient to reimburse the capital which shall be expended in the purchase of such land and making said roads, and twelve per cent. interest per annum thereon, to be ascertained by the circuit court of the United States, in and for the District of Columbia, the same shall become free roads, and tolls shall be no longer collected thereon; and said company shall annually make returns to said circuit court of the amount of the tolls collected, and of their necessary expenses, so as to enable said circuit court to determine when said tolls shall cease.

SEC. 13. *And be it further enacted*, That, if any person or persons riding in or driving any carriage of any kind, or leading, riding, or driving, any horses, sheep, hogs, or any kind of cattle whatever, on said road, shall pass through any private gate, bars, or fence, or over any private way or passage, or pass through any toll-gate under any pretended privilege or exemption to which he, or she, or they, may not be entitled, or do any act or thing with intent to lessen or evade the tolls for passing through the gates established under this act, such person or persons, for every such offence, shall forfeit to the said president

and directors not less than three nor more than ten dollars, to be recovered before any justice of the peace, with costs, in the same manner that small debts are recoverable: *Provided*, That it shall not be lawful for the company to ask, demand, or receive, from or for persons living on or adjacent to the said roads, who may have occasion to pass by said roads upon the ordinary business relating to their farms, so far as the limits of the same may extend on the roads, respectively, who shall not have any other convenient road or way by which they may pass, from one part to another part thereof, any toll for passing on, or by either of the said turnpikes.

Approved, April 20, 1810.

An Act to amend an act, entitled "An act for the establishment of a turnpike company in the county of Alexandria, in the District of Columbia."

Be it enacted, &c., That it shall and may be lawful to and for the president and directors of the Washington and Alexandria Turnpike Company, in all cases where stone, gravel, earth, or sand, may be necessary for making or repairing the Washington and Alexandria turnpike road, and the President and Directors of the Washington and Alexandria Turnpike Company cannot agree for the same with the owners thereof, it shall and may be lawful for any one of the judges of the circuit court of the District of Columbia, upon application by the said president and directors, or any person authorized by them, by warrant under his hand and seal, to command the marshal of the said District to summon a jury of thirteen disinterested persons, qualified to serve as petit jurors in the said circuit court, to meet at the place where such materials may be, on some day not more than ten after the date of such warrant, and to give the other party five days' notice of the time and place, if such party be found within the District of Columbia, and if any of the said jurors should fail to attend at the said time and place, the marshal may immediately summon talesmen in the place of those who are absent, and shall administer an oath to the said jurors or talesmen as the case may be, justly and impartially to value the said materials, and to assess the damage which the owner thereof shall sustain by the taking thereof by the said president and directors, which valuation and assessment of damages made by the said jurors or a majority of them, shall be signed by the said marshal and the jurors, or so many of them as shall agree thereto, and be returned to the clerk of the said court for the county of Alexandria, to be by him recorded, and shall be conclusive between the parties; and a copy thereof shall be delivered to each of the parties who may be resident in the said District of Columbia, and the sum so awarded and assessed being paid to the said clerk of the said court, for the use of the party entitled thereto, the said president and directors may proceed to take and carry away the said materials so valued for the purposes aforesaid, and the said president

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and directors shall pay the said marshal five dollars for his service in summoning and impanneling the said jury, and taking and returning said inquest, and two dollars to each of the said jurors so sworn.

SEC. 2. *And be it further enacted*, That the president and directors aforesaid, may remove their toll-gate from the bridge that is made across Four Mile Creek, and place the same, and collect the tolls of their said road and bridge, on any part of the said road: *Provided*, That the said toll-gate shall not be placed any nearer to the town of Alexandria than where it now stands, nor more than half a mile from where it now is.

SEC. 3. *And be it further enacted*, That it shall and may be lawful for the president and directors of the said company, or a majority of them, to agree with the owners of any ground, to be occupied by the necessary toll-houses and gates, for the right thereof, or in case the owner thereof shall be a *feme covert*, under age, *non compos*, or out of the District, then the same shall be condemned, and paid for in the same manner, and subject to the same conditions as is provided by the act to which this is a supplement, for condemning the lands through which the road was to be conducted: *Provided*, The quantity of land so condemned does not exceed half an acre.

SEC. 4. *And be it further enacted*, That, to enable the said company immediately to complete and render sufficient the said road, according to the true intent and meaning of the said recited act, it shall and may be lawful for the stockholders of the said company, at any general meeting at which a majority of them in person, or by proxy, shall be present, to increase the number of shares to such extent as shall be necessary to accomplish the work on the road aforesaid, as now laid out, and to demand and receive the moneys subscribed for such shares in the like manner, and under the like penalties, as therein provided for the original subscriptions.

Approved, April 25, 1810.

An Act to allow the benefit of drawback on merchandise transported by land conveyance from Newport to Boston, and from Boston to Newport, in like manner as if the same were transported coastwise.

Be it enacted, &c., That all goods, wares, and merchandise, duly imported into either of the ports of Boston and Newport, which shall be transported by land conveyance from the port of Newport, by the way of Rhode Island bridge and Taunton, to Boston; or from Boston, by the same route, to Newport, and which being imported into Newport, shall be exported from Boston; or which, being imported into Boston, shall be exported from Newport, shall be entitled to the benefit of a drawback of the duties upon exportation, to any foreign port or place, under the same provisions, regulations, restrictions, and limitations, as if the said goods, wares, and merchandise were transported coastwise from one to

another of the said districts; and on the proviso that all the provisions, regulations, limitations, and restrictions existing in the case of goods, wares, and merchandise, transported by any of the routes mentioned in the seventy-ninth section of the act, entitled "An act to regulate the collection of duties on imports and tonnage," passed the second of March, one thousand seven hundred and ninety-nine, shall be duly observed.

Approved, April 25, 1810.

An Act to establish Post Roads.

Be it enacted, &c., That the following be established as post roads:

In the District of Maine.—From Portsmouth, N. H. by Kittery, York, Wells, Arundel, Biddeford, Saco, Scarborough, Cape Elizabeth, Portland, Falmouth, North Yarmouth, Freeport, Brunswick, Bath, Woolwich, Wiscasset, New Castle, Waldoboro', Warren, Camden, Canaan, Lincolnville, Northport, Belfast, Prospect, Buckstown, Orland, Trenton, Sullivan, Steuben, Harrington, Addison, Jones, Machias, Denneysville, and Scodic, to Calais.

From Dover, N. H. by Berwick and Doudy's Falls, to Arundel, or Kennebunk.

From Portland, by Gorham, Buckstown, Limerick, Limington, Cornish, Parsonfield, Newfield, Shapleigh, Lebanon, Berwick, Sanford, Alfred, Waterboro', and Phillipsburg, to Buxton.

From Portland, by Saccarappec, Gorham, Standish, Flintstown, Hiram, and Brownfield, to Frybush.

From Portland, by Windham, Raymond, Bridgetown, Lovell, Waterford, Norway, Paris, Buckfield, Sumner, Hartford, Livermore, Turner, Poland, New Gloucester, and Hebron Academy, to Paris.

From Portland, by Falmouth, Gray, New Gloucester, Lewistown, Green, Monmouth, Winthrop, Augusta, Sydney, Waterville, Fairfield, Canaan, to Norridgewock, and Anson.

From Brunswick, by Topsham, Bowdoinham, Gardiner, and Hallowell, to Augusta.

From Gardiner, by Pittstown and Dresden, to Wiscasset.

From Augusta, by Redfield, Mount Vernon, Chester, and New Sharon, to Farmington.

From Augusta, by Vassalboro', Winslow, Clinton, Fairfax, Unity, and Colletown, to Hampden.

From Wiscasset, by Edgecomb, to Boothbay.

From Wiscasset, by New Milford, Jefferson, Palermo, and Montville, to Belfast.

From Buckstown, by Frankfort, Hampden, and Bangor, to No. 1, 7th Range, and thence by Orrington, to Buckstown.

From Buckstown, by Penobscot, Castine, Sedgwick, and Blue Hill, to Buckstown, and from Castine to Lincolnville.

From Sullivan to Goldsboro'.

From Denneysville to Eastport.

In New Hampshire.—From Salisbury, Ms. by Seabrook, and Hampton, to Portsmouth.

From Portsmouth, by Durham, and Northwood, to Concord.

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From Portsmouth, by Exeter, and Kingston, to Haverhill, Ms.

From Portsmouth, by Exeter, Chester, Londonderry, Merrimack, Amherst, Petersboro', Marlboro', and Keene, to Walpole.

From Haverhill, Ms. by Chester, Concord, Hopkinton, Henniker, and Lemster, to Charleston.

From Haverhill, Ms. by Salem, to Windham.

From Tyngboro', Ms. by Dunstable, Amherst, Francistown, Washington, and Claremont, to Windsor, Vt.

From Portsmouth, by Nottingham, Epsom, Pembroke, Concord, Salisbury, Andover, Wilmot, Enfield, Lebanon, Hanover, Lime, Orford, Piermont, Haverhill, Bath, Littleton, Dalton, Lancaster, Cockburn, Colebrook, and Stuart, to Norfolk, Vt.

From Hanover, by Canaan, and Groton, to Plymouth.

From Salisbury, by Andover, New Chester, and Bridgewater, to Plymouth, thence by Holderness, New Hampton, and Sanbornton, to Salisbury.

From Newburyport, Ms. by Exeter, New Market, Durham, Dover, and Barrington, to Gilmanton.

From Portsmouth, by Dover, Rochester, Middletown, Ossipee, Moultonboro', Centre Harbor, Plymouth, and Haverhill, to Newbury; and from Plymouth, by New Hampton, Meredith, Gilmanton, Nottingham, and Durham, to Portsmouth.

From Friburg, Me. by Conway, Bartlett's, Rosebrooks, and Jefferson, to Lancaster.

From Winchendon, Ms. by Fitzwilliam, and Keene, to Brattleboro', Vt.

From Warwick, Ms. by Winchester, and Kinsdale, to Brattleboro', Vt.

From Ashby, Ms. by New Ipswich, and Jaffray, to Marlboro'.

In Vermont.—From Lansingburg, N. Y. by Bennington, Shaftsbury, Arlington, Manchester, Rutland, Pittsford, Brandon, Leicester, Salisbury, Middlebury, New Haven, Vergennes, Ferrisburg, Charlotte, Shelburn, Burlington, Colchester, Milton, Georgia, and St. Alban's, to Highgate.

From Williamstown, Ms. by Pownall, to Bennington.

From Brattleboro', by Marlboro', Wilmington, and Woodford, to Bennington.

From Rutland, by Clarendon, Shrewsbury, Plymouth, Reading, and Windsor, to Cavendish.

From Rutland, by Castleton, Fairhaven, Benson, Orwell, Shoreham, and Addison, to Vergennes.

From Middlebury, by New Haven, Monkton, Hynesburg, Williston, Jericho, Essex, Westford, Fairfax, Fairfield, and Sheldon, to Huntsburg; thence by Berkshire, Enosburg, Bakersfield, Cambridge, Underhill, Richmond, Huntington, Starksboro', and Bristol, to Middlebury, and from thence to Poultney, and also from Middlebury, by Royalton, to Hanover, N. H.

From Barnardstown, Ms. by Hinsdale, Brattleboro', Putney, Westminster, Walpole, Charles-

ton, Wethersfield, Windsor, Hartford, Norwich, Thetford, Fairlee, Bradford, Newbury, Ryegate, Barnet, Littleton, Concord, and Lunenburg, to Guildhall.

From Walpole, N. H. by Bellows Falls, Rockingham, Chester, Cavendish, Ludlow, and Shrewsbury, to Rutland.

From Windsor, by Woodstock, Barnard, Royalton, Randolph, Williamston, Berlin, Montpelier, Middlesex, Waterbury, Bolton, Jericho, and Williston, to Burlington, and from thence to Grand Isle.

From Newbury, by Corinth, Washington, and Barre, to Berlin.

From Ryegate, by Peacham, Danville, Wheelock, Sheffield, Glover, Barton, Brownington, and Salem, to Derby.

From Lancaster, N. H. by Lunenburg, St. Johnsburg, Danville, Walden, Harwich, Woolcott, Hydespark, Johnston, and Fletcher, to St. Albans.

In Massachusetts.—From Suffield, Conn. by Springfield, Wilbraham, Palmer, Western, Brookfield, Spencer, Leicester, Worcester, Shrewsbury, Northboro', Marlboro', Sudbury, Watertown, Cambridge, Boston, Charlestown, Malden, Lynn, Salem, Beverly, Wrenham, Hamilton, Ipswich, Rowley, and Newburyport, to Salisbury.

From Suffield, Ct. by Westfield, Southampton, Northampton, Hatfield, Whately, Deerfield, and Greenfield, to Bernardstown.

From Salisbury, Ct. by Sheffield, Great Barrington, Stockbridge, Lenox, Pittsfield, Lanesboro', and Williamston, to Greenfield.

From Canaan, Ct. by Sheffield, to Egremont.

From Colebrook, Ct. by Southfield, Sandisfield, Lee, Lenox, and Hancock, to New Lebanon, N. Y.

From Springfield, by Stockbridge and West Stockbridge, to Albany, N. Y.

From Granby, by Granville, Blandford, and Chester, to Middlefield.

From Brookfield, by Ware, Belchertown, Hadley, Northampton, Chesterfield, Worthington, Partridgefield, Dalton, Pittsfield, and Hancock, to New Lebanon.

From Stafford, Ct. to Brookfield or Worcester, and thence by Framingham, to Boston.

From Worcester, by Holden, Rutland, Barre, and Petersham, to Athol.

From Rutland, by Hubbardstown and Templeton, to Winchendon.

From Rutland, by Greenwich, Hardwich, Pelham, Amherst, and Hadley, to Northampton, and thence by South Hadley, to Springfield.

From Boston, by Dedham, Walpole, Foxborough and Attleborough, to Providence, R. I.

From Boston, by the Newburyport turnpike, to Newburyport.

From Dedham, by Medfield, Medway, Billingham, Milford, Mendon, Uxbridge, and Douglass, to Thompson, Ct.

From Boston, by Milton, Canton, Easton, Taunton, Berkley, and Freetown, to New Bedford.

From Boston, by Dorchester, Quincy, Brain-

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tree, Weymouth, Hanover, Pembroke, Kingston, Plymouth, Sandwich, Barnstable, Yarmouth, Dennis, Brewster, Harwich, Chatham, Orleans, Eastham, Wellfleet, and Truro, to Provincetown.

From Sandwich, by Falmouth, to Nantucket.

From Falmouth to Edgarton.

From Sandwich, by Wareham, Rochester New Bedford and Dartmouth, to Westport.

From Weymouth, by Hingham, Cohasset, Scituate, Marshfield, and Duxbury, to Kingston.

From Weymouth, by Abington, Bridgewater, Raynham, Taunton, Dighton, Somerset, and Swansey, to Warren, R. I.

From Boston, by Concord, Stow, Bolton, Lancaster, Leominster, Westminster, Templeton, Gerry, Athol, and Orange, to Warwick.

From Concord, by Littleton, Groton, and Townsend, to Ashby.

From Concord, by Fitzwilliam, N. H. to Brattleborough, Vt.

From Boston, by Medford, Woburn, Billerica and Chelmsford, to Tyngsboro'.

From Woburn, by Andover, to Haverhill.

From Billerica, by Patucket Bridge, Dracut, Pelham, N. H. and Windham, to Londonderry.

From Salem to Marblehead.

From Salem, by Manchester, to Gloucester.

From Salem, by Danvers, Topsfield, Boxford, and Bradford, to Haverhill.

From Newburyport to Haverhill.

From Troy, by Freetown, Berkley, to Taunton.

From Plymouth, by Taunton, to Providence, R. I.

From Framington, by Southborough, Westborough, Grafton, Sutton, Oxford, Dudley, and Woodstock, to Ashford, in Connecticut.

In Rhode Island.—From Plainfield, Ct. by Scituate and Providence, to Smithfield.

From Providence, by Barrington, Warren, and Bristol, to Newport.

From Providence, by Patuxet, East Greenwich, Wickford, and Little Rest, to Towerhill, or South Kingston.

From Newport, by Tiverton, to Westport Ms.

From Newport, by Towerhill, and by the Courthouse in South Kingston, Charleston, and West- erty, to Stonington, Ct.

From Newport, by Tiverton, to Troy, Ms.

From South Kingston, by Richmond, Hopkinton, North Stonington, and Preston, to Norwich, Ct.

In Connecticut.—From Rye, N. Y. by Greenwich, Stamford, Norwalk, Fairfield, Bridgeport, Stratford, Milford, New Haven, North Haven, Wallingford, Berlin, Wethersfield, Hartford, and Windsor, to Suffield.

From Norwalk, by Reading, Danbury, Brookfield, New Milford, Washington, Litchfield, Harwinton, Burlington, Farmington, Hartford, East Hartford, Ashford, and Pomfret, to Thompson.

From New Milford, by Kent, and Sharon, to Salisbury.

From Bridgeport, by Trumbull, Ripton, Huntington, and Newtown, to Brookfield.

From New Haven, by Derby, Southbury, Wood-

bury, Bethlehem, Litchfield, and Goshen, to Canaan.

From New Haven, by Woodbridge, Waterbury, Watertown, Litchfield, Cornwall, and Sharon, to Poughkeepsie, N. Y.

From New Haven, by Cheshire and Southington, to Farmington.

From New Haven, by Durham and Middletown, to Wethersfield.

From New Haven, by Branford, Guilford, Killingworth, Saybrook, Lyme, New London, Chelsea, and Jewitt's city to Plainfield.

From Saybrook, by Petty Pang, Haddam, East Haddam, and Middle Haddam, to Middletown.

From Stonington, by New London, Mountville, Colchester, Glastenbury, Hartford, Wintonbury, Canton, New Hartford, Winchester, and Norfolk, to Canaan.

From Norwich, by Canterbury and Brooklyn, to Pomfret.

From Hartford, by Simsbury, to Granby.

From New Hartford, by Hartland, to Colebrook.

From Hartford, by East Hartford, Oxford, Hebron, Lebanon, and Norwich, to Chelsea.

From Hartford, by Coventry, Windham and Canterbury, to Plainfield.

From Hartford, by Tolland, to Stafford.

From East Hartford, by East Windsor, to Springfield, Ms.

From Danbury to Ridgefield.

In New York.—From Jersey city, by New York, Harlaem and New Rochelle, to Rye.

From New York city, by Brooklyn, Jamaica, Hempstead, Merrick, South Oyster Bay, South Huntington, Islip, Patchogue, Fireplace, Moriches, Westhampton, Southampton and Bridgehampton, to Sag Harbor.

From Jamaica, by Queen's C. H. Oyster Bay, Huntington, Dixhills, Smithtown, Setauket Brookhaven, and Riverhead, to Southold.

From New York, by Kingsbridge, Yonkers, Greensburg, Mount Pleasant, Peekskill, Fishkill, Poughkeepsie, Staatsburg, Rhinebeck, Redhook, Clermont, Hudson, Kinderhook, Albany, Schenectady, Amsterdam, Tripshill, Palatine, Little Falls, Herkimer, Utica, New Hartford, Westmoreland, Oneida, Sullivan, Canaseraga, Manlius, Onondaga, Marcellus, Skeneateles, Aurelius, Cayuga, Geneva, Cauandaigua, Bloomfield, Avon, Southampton, Batavia, New Amsterdam, and Lewistown, to Youngstown, or Niagara.

From New Rochelle, by Whiteplains, Salem, Ridgefield, Ct. South East, Patterson and Pauling, to Dover.

From Ramapo Works to Newburg.

From New Antrim, by Monroe, Chester, Goshen, Wallkill, Montgomery, Shawangunk, New Paltz, Kingston, Songaerties, Catskill, Lunenburg, Coxsackie, Coyemans, Bethlehem, Albany, Troy, Lansingburg, Waterford, Stillwater, Saratoga, Northumberland, Fort Miller, Sandy Hill, Queensbury, Fort George, Thurman, Chester, Scaroon lake, Elizabeth, Willsboro', Peru, and Plattsburg, to Champlain town.

From Hamburg, N. J. by Warwick, Florida,

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Goshen, Little Britain, New Windsor, Newburg, and Fishkill landing to Fishkill.

From Danbury, Ct. by Fishkill landing and Newburg, to Chenango Point.

From Rhinebeck, by Kingston, Shandeciv, Middletown, Delhi, Walton, Sidney, Jericho Bridge, Onoquago, Binghampton, Union, Owego, Athens, Pa. Chemung, Elmira, Great Flat, Painted Post, Bath, Canestoe, Ark Port, Danville, Williamsburg and Genesee to Avon.

From Delhi to Meredith.

From Wellsborough, Pa. by Lyndleystown, to Painted Post.

From Hudson, by Lunenburg, Catskill, Cairo, Durham, Broome, Blenheim, Stamford, Harpersfield, Kortwright, Meredith, Franklin, Unadilla, and Clinton, to Jericho Bridge.

From Erie, Pa. by Casada, Cataaugus, and Fish creek, to New Amsterdam.

From Bath, by Roscommon and Jerusalem, to Geneva.

From Elmira, by Catharinestown, Hector, Ovid, Lancaster and Romulus, to Geneva.

From Owego, by Cantines, Ithica, Salmon creek, Milton, Aurora, Cayuga, and Galen, to Great Sodus.

From Ithica, by Ulysses, to Ovid.

From Binghampton, by Green or Lisle, Oxford, Norwich, Hamilton, Paris, and New Hartford, to Utica.

From Oxford, by Unadilla, Otsego, Milford, Hartwich, Otsego village and Bridgewater, to Utica.

From Albany, by Duaneburg, Dwllock, Cherry valley, Otsego village, Burlington, Columbus, Sherburne, Deruyter, Truxton, and Homer, to Aurora.

From Burlington, by New Berlin, Plymouth, Cincinnati, and Homer, to Ithica.

From Otsego village, by New Lisbon, Pittsfield, and Butternuts, to Oxford.

From Cherry valley, by Springfield, Richfield, Plainfield, and Bridgewater, to Sangerfield.

From Onondaga, by Selina, Liverpool, Three Rivers Point, and Oswego falls, to Oswego.

From Vernon, by Smithfield and Cazenovia, to Pompey.

From Utica, by Whitestown, Rome, Camden, Adams, and Sackett's Harbor, to Brownsville.

From Utica, by Trenton, Steuben, Leyden, Turin, Lowville, Harrisburg, Oxbow, Dekalb, Canton, Ogdensburg, Lisbon, Hamilton, Madrid, Pottsdam, Chesterfield, Malone, and Chetauga, to Plattsburg.

From Harrisburg, by Champion, Watertown, and Brownsville, to Port Putnam.

From Little Falls, by Fairfield, Newport, and Russia, to Remsen.

From Peramus, by Tappan, Clarkstown, and Kakiat, to Havrestraw.

From Schenectady, by Ballstown, Ballstown springs, Saratoga springs, Greenfield, and Hadley, to Broadalbin.

From Caughnawago, by Johnson and Mayfield, to Northampton.

From Lansingburg, by Shaghticoke, Easton,

Greenwich, Argyle, Hartford, and Whitehall, to Fairhaven, Vermont.

From Sandyhill, by Fort Ann, to Whitehall.

From Lansingburg, by Cambridge, Salem, Heron, Granville, and Hampton, to Poultney, Vt.

From Willsboro' to Charlotte, Vt.

From Albany, to New Lebanon.

From Hudson, by Claverac, to Egremont, Ms.

In New Jersey.—From Morrisville, Pennsylvania, by Trenton, Princeton, New Brunswick, Rahway, Elizabethtown, and Newark, to Jersey city.

From Philadelphia, Pa. by Cooperstown, Gloucester, Woodbury, Sweedsboro', and Woodstown, to Salem.

From Cooperstown, by Long Coming, Blue Anchor, Riverbridge, and Somer's Point, to Absecon.

From Cooperstown, by Haddonfield, Taunton, and Atsion, to Tuckertown.

From Trenton, by Bordenton, Mount Holley, Black Horse, New Egypt, New Mills, Mount Holy, Morristown, Haddonfield, Cooperstown, Gloucester, Woodbury, Mullicohill, Poletavern, Deerfield, Bridgetown, Millville, Port Elizabeth, Dennis, and Cape May C. H. to Cape Island.

From Trenton by Pennington, Flemington, Alexandria, Belvidere, Hope, Johnsonburg, and Newtown, to Hamburg.

From Trenton, by Allentown, Cranberry, Monmouth, Shrewsbury, Middletown Point, Spotwood, New Brunswick, Somerville, Pluckemin, New Germanton, New Hampton, Asbury, and Pittston, to Alexandria.

From New Hope, Pa. by Somerville, Boundbrook, Newmarket, Plainfield, Scotch Plains and Springfield, to Newark.

From Easton, Pa. by Belvidere and Knowlton Mills, to Detotsburg, Pa.

From Scotch Plains, to New Providence.

From Rahway, by Woodbridge, to Amboy.

From Newark, by Chatham, Morristown, Rockaway, and Sparta, to Newtown, thence by Hacketstown, Washington Valley, Chester and Mendon, to Morristown.

From Morristown, by Baskenridge, to Somerville.

From Jersey city, by Bergen, Hackensack, and Paramus, to New Antrim.

From Bristol, Pa. to Burlington.

From Bridgetown to Cedarville.

In Pennsylvania.—From Wilmington, D. by Chester, Darby, Philadelphia, Frankfort, and Bristol, to Morrisville.

From Philadelphia, by Dowingtown, Lancaster, Elizabethtown, Middletown, Harrisburg, Carlisle, Shippensburg, Chambersburg, M'Connell's town, Bedford, Somerset, Greensburg, Pittsburg, Cannonsburg, and Washington, to West Middletown.

From Taneytown, Md. by Petersburg, Hanover, York, and Columbia, to Lancaster.

From Brick Meetinghouse, Md. by the Rising un, Unicorn, Black horse, Sorrel horse, Lancaster, Leditz, Ephrata, Reemstown, Adamstown, Reading, Cootstown, Allentown, Bethlehem, East-

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ton, Stroudsburg, and Middletown, to Milford, and thence to Pittston.

From Brick Meetinghouse, Md. by New London, Chatham, Kennett's square, Marshalltown and West Chester, to Downingtown.

From Wilmington, D. by New Garden, Chat-ham, Gap, and Strasburg, to Lancaster.

From Lancaster, by New Holland, Church-town, Morgantown, Pughtown, Pawlingsford, Norristown, Montgomery, Doylestown, New Hope, Newtown and Attleborough, to Bristol.

From Philadelphia, by Jenkintown, Doylestown, Plumstead, Bursontown, Easton, Hellers. Woods, Wilkesbarre, Pittston, Putnam, Brains-trem, Wyalusing, Standing Stone, Wysox, and Sheshequin, to Athens.

From Pittston, by Providence and Willing-boro', to Binghamton, New York.

From Plumstead, by Erwinna, to Alexandria, N. J.

From Jenkintown to New Hope.

From Philadelphia, by Germantown, Chesnut Hill, Whitmarsh, Montgomery Square, Quaker-town, Bethlehem, Kreidersville, Lausanne, and Nescopeck, to Berwick.

From Bethlehem to Nazareth.

From Philadelphia, by Germantown, Spring-town, Norristown, Trap, Reading, Hamburg, Sun-bury, Northumberland, Milton, Muncey, and Wil-liamsport, to Wellsborough.

From Milton, by Washington and Jerseytown, to Froetston.

From Harrisburg, by Halifax, Sunbury, Northumberland, Lewisburg, Millinburg and Aarons-burg, to Bellefont, Milesburg, Clearfield, and Venango, to Mercer.

From Harrisburg, by Palmyra, Lebanon, and Womelsdorf, to Reading.

From Lebanon to Jonestown.

From Harrisburg, by Clark's Ferry, Millerstown, Thompsonston, Millintown, Lewistown, McVay-town, Huntingdon, Alexandria, Hollidaysburg, Beaula, Armigh, Indiana, through Alexandria, to Greensburg.

From Millintown, by Waterford, Concord, to Fannetsburg.

From Manchester, Md. by Hanover, Abbotstown, Berlin, and Sulphur Springs, to Carlisle.

From Union, Md. by Petersburg and Gettis-burg, to Chambersburg.

From Emmetsburg, Md. by Gettitsburg, Carlisle, Gap, Millerstown, Selin's Grove, Northumber-land, Danville, Bloomsburg, Berwick, Salem and Hanover, to Wilkesbarre.

From Carlisle, by Wagoners' Gap, Landis-burg, Hacketts, Shower's Mill, and Zimmermans, to Douglass' Mill.

From Hagerstown, Md. by Greencastle, Cham-bersburg, Strasburg, Fannetsburg, Bedford fur-nace, Shirleys, Huntingdon, Centre furnace, Bel-font, Jersey shore, to Williamsport.

From Belfont to Lewistown.

From Gettysburg, by Fairfield and Greencastle, to Messersburg.

From Cumberland, Md. by Salisbury and Ber-lin, to Somerset.

From Somerset, by Connelsville, Union, and New Geneva, to Morgantown, Va.

From Somerset, by Staystown, to Ebensburg.

From Greensburg, by New Alexandria, to Kit-taning.

From Greensburg, by Mount Pleasant, Robbs-town, Parkinson's ferry, and Washington, to Bur-gettstown.

From Union, by Brownsville, Washington, Waynesborough, and Jeffersonville, to Union.

From Pittsburg, by Butler, Mercer, Franklin, Meadsville, Crawford, and Le Bœuf, to Erie.

From Erie to Litchfield, O.

From Pittsburg, by Beavertown, to Greensburg,

From Beavertown to Georgetown.

From Baltimore, Md. to York.

In Michigan.—From Fort Miami, by French-town, to Detroit.

In Ohio.—From Point Pleasant, Va. by Galli-polis, Sciota Salt Works, Chillicothe, Franklinton, Worthington, Delaware, Mount Vernon, Mans-field, Ripley, and Bronson, to Huron.

From Marietta, by Belpre, to Wood C. H.

From Marietta, by Athens, Chillicothe, New Market, Williamsburg, Milford, Columbia, Cin-cinatti, to Northbend.

From Wheeling, Va. by St. Clairsville, Morris-town, Frankford, Cambridge, Zanesville, Spring-field, New Lancaster, Chillicothe, and Browns' Cross Roads, to Maysville, K.

From Cincinnati, by Crossby, Hamilton, Frank-lin, Dayton, Staunton, Troy, Pique Town, Spring-field, Ludlow, Xenia, Waynesville, Lebanon, and Montgomery, to Cincinnati.

From Chillicothe, by Pepee, to Alexandria.

From Zanesville, by Gnadenbutten and New Philadelphia, to Canton.

From Marietta, by Waterford, Zanesville, New-ark, Greenville, Worthington, to Urbana.

From Troy to Greenville.

From Brook C. H. Va. to Steubenville, and Faucettstown, to New Lisbon.

From Greensburg, or Beavertown, Pa. by New Lisbon, Deerfield, Ravenna, Hudson, Cleveland, Huron, Perkins, Paterson, and Sandusky, to Fort-Miami.

From Greensburg, Pa. by Poland, Youngstown, and Warren, to Jefferson, and return by Williams-field, Smithfield, and Brookfield, to Warren.

From Litchfield, by Ralphville, Jefferson, and Austinville, to Cleveland.

From Youngstown to Canfield.

In Indiana.—From Louisville, K. by Jeffer-sonville, Clarksville, Corydon, and Vincennes, to the United States' Saline.

From Northbend, O. by Laurenceburg, to Port William, K.

In Illinois.—From Vincennes, In. T. by Kas-kaskia, Prairies du Rochers, and Cahokia, to St. Louis.

From Smithland, K. by Fort Massac and Ty-wappety, to Cape Girardeau, L. T.

In Louisiana.—From St. Genevieve, by Mine au Burton, and St. Louis, to St. Charles.

From Kaskaskia, I. T. by Genevieve and Cape Girardeau, to New Madrid.

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In Delaware.—From Elkton, Md. by Christina and Newport, to Wilmington.

From Wilmington, by New Castle, St. Georges, Cantwell's Bridge, Smyrna, Dover, Camden, Frederica, Milford, Georgetown, and Dagsborough, to Poplartown, Md.

From Cantwell's Bridge, by Middletown, to Warwick, Md.

From Frederica to Whiteleysburg.

From Salisbury, Md. by Laurel, Concord and Georgetown, to Lewistown.

From New Market, Md. by Northwest Fork Bridge and Bridge Branch, to Georgetown.

In Maryland.—From Washington City, by Bladensburg, Baltimore, Harford, Havre de Grace, and Northeast, to Elkton.

From Washington City, by Upper Marlboro', Queen Ann, Annapolis, Haddaways, St. Michaels, Easton, Cambridge, Vienna, Salisbury, Snowhill, Princess Ann, White Haven, and Quantico, to Vienna.

From Poplartown, by Snowhill, to Horntown.

From Salisbury to Quantico.

From Cambridge to New Market.

From Easton, by Centreville, Churchhill, Chestertown, Georgetown Cross Roads, and Sassafras, to Warwick.

From Georgetown Cross Roads, by the head of Chester, Sudler's Cross Roads, Beaver Dam, and Nine Bridges, to Greensborough.

From Easton, by Hillsborough, Denton, and Greensborough, to Whiteleysburg, D.

From Elkton to Brick Meeting House.

From Baltimore to Annapolis.

From Harford to Belle Air.

From Baltimore, by Rockhall, to Chestertown.

From Baltimore, by Reisterstown, to Manchester.

From Reisterstown, by Westminster, to Union mills.

From Baltimore, by Ellicott's Lower Mills, Poplartown, New Market, Fredericktown, and Newtown, to Harper's Ferry.

From Baltimore, by Queenstown, to Centreville.

From Washington City, by Georgetown, Montgomery C. H. Clarksburg, Fredericktown, Middletown, Hagerstown, Hancock, Berkeley springs, Oldtown, to Cumberland, and thence by the National Road, to Union, Pa.

From Washington City, by Brookville and Triadelphia, to Ellicott's Mills.

From Fredericktown to Liberty.

From Fredericktown, by Woodsborough, to Taneytown.

From Fredericktown, by Creagerstown, to Emmetsburg.

From Shepherdstown, Va. by Sharpsburg and Williamsport, to Hagerstown.

From Upper Marlborough, by Nottingham, Aquasco, Benedict, and Charlotte Hall, to Chaptico.

From Queen Ann, by Pig Point, Tracey's Landing, Lower Marlborough, Huntington, and Calvert, C. H. to St. Leonards.

From Washington City, by Piscataway, Port

Tobacco, Allenfresh, Newport, Chaptico, Leonardtown, Great Mill, and St. Ingoes, to Ridge.

From Port Tobacco, by Tophill, to Nanjemoy.

From Leesburg, Va. by Charlesburg, to Montgomery C. H.

From Fredericktown to Leesburg.

From Newtown Trap, by Berlin, Thrasher's Store, and Hamilton's Mill, to Waterford in Va.

In Virginia.—From Washington City, by Alexandria, Dumfries, Stafford C. H. Falmouth, Fredericksburg, Bowling Green, White Chimnies, Hanover C. H. Richmond, Petersburg, Harris's, and Brunswick, to Warrenton, N. C.

From Washington City, by Prospect, Lanesville, Leesburg, Waterford, Hillsborough, Charles-town, Shepherdstown, and Martinsburg, to Berkeley Springs.

From Waterford, by Braden's Store, Janneys, and Snicker's Gap, to Upperville.

From Washington City, by Fairfax C. H. Goshen, Middleburg, Paris, Winchester, Romney, Westernport, Maryland, Gandysville, Clarksburg, and Marshes, to Marietta, Ohio.

From Gandysville, to Morgantown.

From Clarksburg to Beverly.

From Pendleton C. H. by Moorfield, Romney, Springfield, and Frankfort, to Cresapsburg, Maryland.

From Williamsport, Maryland, by Martinsburg, Winchester, Stevensburg, Newtown, Strasburg, Woodstock, New Market, and Harrisonburg, to Staunton.

From Harper's Ferry, by Charlestown and Battletown, to Winchester.

From Fairfax C. H. by Centreville, Haymarket, Warrenton, Madison, C. H. Stannardsville, Staunton, Middlebrook, Brownsburg, Lexington, Natural Bridge, Pattonsburg, Fincastle, Amsterdam, Salem, Airmont, Christiansburg and Evansham, to Abingdon.

From Alexandria to Fairfax C. H.

From New York to Lovington in Nelson county.

From Colchester to Occoquan.

From Fredericksburg, by Elk Run Church and Warrenton, to Gibsons and Oak hill.

From Fredericksburg, by Germana, Stevensburg, Culpepper C. H. Jeffersonston, Washington, and Front Royal, to Winchester.

From Culpepper C. H. by Woodville, F. T. Village, Pass Mills, Thornton's Gap, Mundell's store, and Hawksbill Mills, to New Market.

From Fredericksburg, by Orange C. H. Gordons, Milton, Charlottesville, New Glasgow, to Lynchburg.

From Lovington, by Warren, to Warminster.

From Fredericksburg, by Thornsburg, Chilesburg, Oxford, Crewsville and Price's Mills, to Goochland C. H.

From Fredericksburg, by Spottsylvania C. H. Lewis's, Potties, Bibb's store, Louisa C. H. Yanceyville, and Mitchell's store to Goochland C. H.

From Fredericksburg, by King George C. H. Broadfield, Mattoxbridge, Leedstown, Templeman's Cross Roads, Richmond C. H. Mount Airy, Farnham, Kinsale, Northumberland C. H. and Lancaster C. H. to Kilmarnock.

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From Fredericksburg, by Port Royal, Laytons, Tappahannock, Urbanna, and Gloucester C. H. to Yorktown.

From Bowling Green, by Broadus's Mills, Dunkirk, Walkerton, King and Queen C. H. and Gloucester C. H. to Matthews C. H.

From Dunkirk, by Aylett's Warehouse, King William C. H. to Lilly Point.

From Richmond, by Goochland C. H. Columbia, Milton, Charlottesville, New York, Waynesburg, Staunton, Warm Springs, Callaghans or Browns, Sulphur Springs, Lewisburg, Kenhaway, C. H. and Hudsons, to Point Pleasant.

From Hudsons, by Wards and Jourdans, to Cattlesburg, at the mouth of Big Sandy.

From Callaghans, by Sweet Springs and Union, to Giles' C. H.

From Evansham, by Jeffersonville and Franklin, to Jonesville.

From Evansham, by Austinville, to Greenville.

From Richmond, by Powhatan C. H. Cumberland C. H. Floods, Lynceburg, Beauforts, Hourytown, and Fincastle, to Sweet Springs.

From Liberty, by Brown's store, Rocky Mount, Henry C. H. to Hatrick C. H.

From Powhatan C. H. by Cartersville, New Canton, Buckingham C. H. and Bent Creek, to Lynchburg.

From Powhatan C. H. by Farmville, Prince Edward C. H. Charlotte C. H. Marysville, Halifax C. H. Peytonsburg and Pittsylvania C. H. to Henry C. H. and from Peytonsburg, to Danville.

From Prince Edward C. H. by Kelso's store, to Hunters.

From Pittsylvania C. H. by Danville, to Caswell C. H. in North Carolina.

From Lynchburg, by Bethel, Pedlar Mills, and Wincanton, to Lexington.

From Lynchburg, by Campbell C. H. Ward's Ferry, on Staunton river, and Stone's store, to Pittsylvania C. H.

From Richmond, by Chesterfield C. H. Spring Hill, Colesville, Jenitoe Bridge, Cassel's store, Amelia C. H. Painesville and Jamestown, to Farmville.

From Charlotte C. H. by Rough Creek Church, and Reed's store, on Fallen river, to Campbell C. H.

From Richmond, by Hanover town, Dunkirk, and Tappahannock, to Richmond C. H.

From Richmond, by Frazers, New Kent C. H. Williamsburg, Yorktown, Hampton, Norfolk and Great Bridge, to North west River Bridge.

From Richmond, by Granville, to Charles City C. H.

From Petersburg, by Dinwiddie, C. H. Notaway C. H. Hendersonville, Hungrytown, Double Bridge, Haleys, Willies, Bibb's Ferry, and Scotsburg, to Halifax C. H.

From Petersburg, by Prince George, Cabin Point, Surrey C. H. Smithfield, Everitt's Bridge, Suffolk, and Portsmouth, to Norfolk.

The mail may be sent from Smithfield, by Sleepy Hole Ferry, and thence to Suffolk, when the road and ferry are in convenient repair.

From Petersburg to City Point.

From Petersburg, by Sussex C. H. Jerusalem and South Quay, to Murfreesboro', North Carolina.

From Hicks's Ford, by Smith's store, to Murfreesboro'.

From Harrisville, by Field's Mill, Quarlesville, M'Farlands, Lunenburg C. H. Christiansville, Marshallsville, Mecklenburg C. H. St. Tammany's and Gee's Bridge, to Harrisville.

From Percivalls, by Westward Mill, Mason's, Belfield, and Hicks's ford, to Halifax, North Carolina.

From Hicks's ford, by Cross Keys, Bethlehem, and Jerusalem, to Suffolk.

From Billips's to Hicks's ford.

From West Middletown, Pennsylvania, by Brook C. H. and Short Creek, to Wheeling.

From Horntown, by Accomac C. H. and Northampton C. H. to Norfolk.

From West Liberty, by Short Creek, to Warrenton, O.

In Kentucky.—From Maysville, by Washington, Millersburg, Paris, Lexington, Frankfort, Springfield, Greensburg, Glasgow, and Bowling Green, to Russelsville.

From Catlettsburg, by Greenup C. H., Johnson's Mills, Vanceburg, Salt Works, Lewis C. H. and Flemingsburg, to Millersburg, thence by Mount Sterling, and the Olympian Springs, to Catlettsburg.

From Cumberland Gap, by Barboursville, Road Forks, Crab Orchard, Stanford, Danville, Harrodsburg, Frankfort, and New Castle, to Port William.

From Roadforks to Clay C. H.

From Washington, by Augusta and Newport, to Boon C. H.

From Lexington, by Nicholasville, Richmond and Lancaster, to Danville.

From Frankfort, by Georgetown, Cynthiana, Falmouth, and Newport, to Cincinnati, O.

From Frankfort, by Shelbyville, Louisville, Sheppardsville, Bairdstown, Springfield, and Danville, to Casey C. H.

From Frankfort, by Middletown, Bairdstown, Bealsburg, Elizabethtown, Grangerville, Hardenburg, Hartford, and Muhlenburg C. H. to Russelsville.

From Hardenburg, by Yellow Banks, Hendersonton, United States' Saline, In. T. to Shawnee Town, Il. T. and to Livingston C. H.

From Russelsville, by Christian C. H. Eddyville, and Livingston C. H. to Smithland.

From Stanford, by Pulaski C. H. Wayne C. H. Cumberland, and Adair, to Greensburg.

From Lexington, by Winchester and Mount Sterling, to Estill, C. H.

From Muhlenburg C. H. Hopkins C. H. by Harpsburg, to Henderson.

In North Carolina.—From Warrenton, by Louisburg, Raleigh, Averbysboro'. Fayetteville, Lumberton, and Noland, to Barefields, S. C.

From Suffolk, Va. by Gates C. H. Edenton, Lee's Mills, Plymouth, Washington, Newbern, Swansboro', and Wilmington, to Smithville.

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From Henry C. H. Va. to Germanton.
 From Greenville, Va. by Scull Camp, Mount Airy, and Bethania, to Salem.
 From Warrenton, by Williamsboro', Oxford. Person C. H. Leesburg, Caswell C. H. Lenox Castle, Rockingham C. H. and Germanton, to Salem.
 From Oxford to Hillsboro'.
 From Raleigh, by Nuttall's store, to Oxford.
 From Raleigh, by Chapel Hill, Hillsboro', Alleman, Greensboro', Salem, Huntsville, Houstonville, Statesville, Island Ford, Morgantown, and Ashville, to the Warm Springs, and from Ashville to Haywood C. H.
 From Hillsboro', by Mount Tirzah, Person C. H. Williamsville, and the Red House, to Halifax C. H. Va.
 From Huntsville, by Rockford, Hamptonville, and Wilkesboro', to Ash C. H.
 From Salem, by Lexington, Salisbury, and Concord, to Charlotte.
 From Charlotte to Statesville.
 From Raleigh, by Pittsboro', Randolph C. H. Salisbury, Beattysford, Grahams, Lineolton, and Rutherfordton, to Spartansburg, S. C.
 From Fayetteville, by Moore C. H. Waddels ferry, Tyson's store, Linly's store, and Hillsboro', by Jones's ferry, to Piusboro', and thence by Haywood, to Fayetteville.
 From Fayetteville, by Rockingham, Wadesboro', Springville, and Tindallsville, to Salisbury.
 From Fayetteville, by Laurel Hill, to Winfieldsville, S. C.
 From Warrenton, by Jones's store, Halifax, Northampton C. H. Murfreesborough, Winton, Coleraine, Windsor, Edenton, Hartford, Nixonton, Elizabeth, Camden C. H. Indiantown, Currituck C. H. and Tull's Creek, to North West Bridge, Va.
 From Elizabeth to New Lebanon.
 From Warrenton, by Ransom's Bridge, Sill's store, Nash C. H. Tarborough, Greenville, Washington, Bath, Woodstock, and Germanton, to Lake Landing, on Mattamuskeet.
 From Halifax, by Enfield, Mount Prospect, to Tarborough.
 From Raleigh to Nash C. H.
 From Halifax, by Scotland Neck, Hamilton, Williamston, Jamestown, Plymouth, and Washington C. H. to Scuppernong.
 From Raleigh, by Smithfield, Waynesboro', Kingston, and Newbern, to Beaufort.
 From Kinston to Snowhill.
 From Fayetteville, by Sampson C. H. Duplin C. H. and South Washington, to Wilmington.
 From Fayetteville, by Elizabethtown, to Wilmington.
 From Elizabethtown to Marsh Castle.
In Tennessee.—From Abingdon, Va. by Blountsville, Rossville, Rogersville, Whitesides, Bean's Station, Rutledge, Knoxville, Campbell, Meredith, Kingston, Hartleys, Alexanders, White Plains, Carthage, Dixon's Springs, Cairo, Gallatin, Hendersonville, Nashville, Franklin, and Columbia, to the Big Spring.
 From Blountsville, by Jonesborough, Green-

ville, Cheek's Cross Roads, and Dandridge, to Knoxville.

From Jonesborough, by Elizabethtown, to Ashe C. H., N. C.

From the Warm Springs, N. C. by Newport, Sevierville, Knaoxville, Clinton, and Chitwood, to Pulaski, K.

From Newport, by Cheek's Cross Roads, Bean's Station, Tazewell, and Powell's Valley, to Cumberland Gap.

From Knoxville, by Marysville, Telico, Amoy River, Vanstown, Turkeytown, near the junction of Koose and Talipoose river, being the head of Alabama river, to Fort Stoddert, on the Mobile river, M. T.

From Carthage to Lebanon.

From Carthage to Fort Blount.

From Nashville, by Charlotte, Hickman C. H. and Humphreys C. H. to Charlotte.

From Nashville, by Springfield, to Russellville, K.

From Springfield, by Port Royal, Clarksville, and Palmyra, to Stewart C. H. and from thence to Eddyville, in the State of Kentucky.

From Kingston, by Rhea C. H. Bledsoe C. H. Warren, and Jefferson, to Nashville.

From Wayne C. H. Kentucky, by Overton C. H. and White Plains, to White C. H.

From Columbia, by Shelbyville, Winchester, Fayetteville, Huntsville, M. T. and Pulaski, to Calumbia.

From Bledsoe C. H. to Franklin C. H.

In South Carolina.—From Barefields, by Port's ferry, China Grove, Georgetown, Charleston, Jacksonboro', Pocotaligo, and Coosawhatchie, to Savannah, Ga.

From Greenville, by Pickensville, Pendleton C. H. and Hattensford, to Carnesville, Ga.

From Winfieldsville, by Cheraw C. H. Camden, Columbia, Edgefield C. H. and Cambelltown, to Augusta Ga.

From Barefields, by Marion C. H. Hlesboro', Bitheasville, and Harpersville, to Barefields.

From Port's Ferry, to Conwayborough.

From Wadesborough, N. C. by Sneedsborough, Chatham, Cheraw C. H. and Darlington C. H. to Port's Ferry, on Lynch Creek.

From Charleston, by Monk's Corner, Jamesville, Statesburg, Camden, Chestnut Ferry, Peas' store, Rocky Mount, Lansford and Alexanders, to Charlotte, to return by Cairo and Lancaster, to Camden.

From Columbia, by Miersville, Statesburg, Sumpterville, Salem, Kingstree, Indiantown, and Willtown, to China Grove.

From Columbia, by Winnsborough, Chester C. H. York C. H. Pinckneyville, Union, Meansville, and Spartanburg, to Greenville.

From Columbia, by Monticello, Hendersons, O'Neals, the Keys, Cross Anchor, and Shackelfords, to Greenville, return by Stonesville, Young's store, Scuffletown, Huntington, Poplar Grove, and Springhill, to Columbia.

From Charleston, by Dorchester, St. Georges, Orangeburgh, Columbia, Newbury C. H. Belfast, Laurens C. H. Fork Shoal, Greenville, Reeds-

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ville and Claytons ville, to Ashville, N. C. to return by Murraysville, to Greenville.

From Greenville, return by Tumbling-Shoal and Laurens C. H. to Columbia.

From Edgefield, C. H. by Richardsons, Cambridge, Abbeville, and Rocky River, to Pendleton C. H.

From Edgefield C. H. by Long Miers, Willington, Vienna, and Andersonville, to Pendleton C. H.

From Jacksonboro', by Barnwell, C. H. and Campbelltown, to Augusta, Ga.

From Pocotaligo to Beaufort.

From Charlotte, N. C. to York C. H.

From Petersburg, Ga. to Vienna.

In Georgia.—From Savannah, by Bryan C. H. Darien, and Brunswick, to St. Mary's.

From Augusta, by Lincolnton, Petersburg, and Elberton, to Franklin C. H.

From Augusta, by Columbia C. H. Washington, Lexington, Athens, Watkinsville, and Clarksboro', to Jefferson.

From Augusta, by Columbia C. H. Warrenton, Sparta, Milledgeville, and Jones C. H. to Hawkins, on the Oakmulgee river, and from thence to Coweta.

From Milledgeville, by Putnam C. H. Morgan C. H. and Watkinsville, to Athens.

From Darien, by Jones's, to Milledgeville.

From Morgan C. H. to Randolph C. H.

From Milledgeville to Saundersville.

From Augusta, by Waynesboro', Louisville, Georgetown, Warrenton, Powelton and Greensboro', to Washington.

From Augusta, by Jacksonboro', to Savannah. From Riceboro' to Sunbury.

In Mississippi.—From the Big Spring, by Bear Creek, M'Intoshville, Walnut Hill, St. Albans, Grindstone Ford, Port Gibson, Greenville, Washington, Natchez, Ellis' ferry, and Loftus Heights, to Pinckneyville.

From M'Intoshville, or White Oak Creek, by Fort St. Stephens, to Fort Stoddert.

From Coweta, by Tuckabachy, Tensaw, and Fort Stoddert, to Pascagoola River.

In Orleans Territory.—From Pinckneyville, by Baton Rouge, Abbeville, La Fouché, or Houmas, St. Charles, to Balize.

From La Fouché, by Point Coupee, Opelousa, and Rapid, to Natchitoches.

From Pascagoola river to New Orleans.

Sec. 2. *And be it further enacted,* That, from and after the first day of June next, all post roads heretofore established by any act of Congress of the United States, shall be and the same are hereby discontinued: *Provided,* That nothing herein contained shall be construed so as to affect any existing contracts.

Approved, April 28, 1810.

An Act to extend the time for locating Virginia military land warrants, and for returning the surveys thereon to the Secretary of the Department of War.

Be it enacted, &c. That the officers and soldiers of the Virginia line on continental estab-

lishment, their heirs or assigns, entitled to bounty lands within the tract reserved by Virginia, between the Little Miami and Sciota rivers, for satisfying the legal bounties to her officers and soldiers upon continental establishment, shall be allowed a further term of five years, from and after the passage of this act, to obtain warrants and complete their locations, and a further term of seven years, from and after the passage of this act as aforesaid, to return their surveys and warrants, or certified copies of warrants, to the Secretary of the War Department, anything in any former act to the contrary notwithstanding: *Provided,* That no locations as aforesaid, within the above-mentioned tract, shall, after the passing of this act, be made on tracts of land for which patents had previously been issued, or which had been previously surveyed; and any patent which may nevertheless be obtained for land located contrary to the provisions of this section, shall be considered as null and void.

Approved, March 16, 1810.

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An Act concerning Invalid Pensioners.

Be it enacted, &c., That the Secretary of War be and he is hereby directed to place the following named persons, whose names have been transmitted to Congress, pursuant to a law passed the tenth of April, one thousand eight hundred and six, on the pension list of invalid pensioners of the United States, according to the rates, and to commence at the times herein mentioned, that is to say:

Gideon Griggs, at the rate of two dollars and fifty cents per month, to commence on the ninth day of December, one thousand eight hundred and nine.

Elijah Brainard, at the rate of five dollars per month, to commence on the sixth day of November, eighteen hundred and nine.

Benjamin Cotton, at the rate of two dollars and fifty cents per month, to commence on the thirtieth day of January, eighteen hundred and nine.

William Smart, at the rate of five dollars per month, to commence on the second day of February, eighteen hundred and nine.

John Union, at the rate of two dollars and fifty cents per month, to commence on the sixth day of December, eighteen hundred and eight.

Edward Grant, at the rate of three dollars and seventy cents per month, to commence on the twenty-third day of January, eighteen hundred and nine.

Peleg Smith, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the tenth day of January, eighteen hundred and nine.

Nathaniel Ladd, at the rate of two dollars and fifty cents per month, to commence on the twenty-eighth day of January, eighteen hundred and nine.

John Reed, at the rate of five dollars per month, to commence on the thirty-first day of October eighteen hundred and nine.

Joseph Slack, at the rate of two dollars and

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thirty-three and one-third cents per month, to commence on the seventeenth day of October, eighteen hundred and nine.

Samuel Sterns, at the rate of two dollars and fifty cents per month, to commence on the twentieth day of March, eighteen hundred and eight.

Enos Petett, at the rate of two dollars per month, to commence on the fifth day of June, eighteen hundred and nine.

Jonathan Perkins, at the rate of five dollars per month, to commence on the third day of May, eighteen hundred and nine.

Toney Twiney, at the rate of three dollars and seventy-five cents per month, to commence on the twenty-third day of June, eighteen hundred and eight.

James Wayland, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the sixteenth day of January, eighteen hundred and nine.

David Hurd, at the rate of three dollars and seventy-five cents per month, to commence on the twenty-third day of June, eighteen hundred and eight.

Squire Boon, at the rate of three dollars per month, to commence on the ninth day of September, eighteen hundred and nine.

Henry Shaw, at the rate of two dollars and fifty cents per month, to commence on the seventeenth day of October, eighteen hundred and nine.

Quintin Moore, at the rate of one dollar and sixty-six and two-third cents per month, to commence on the twenty-sixth day of August, eighteen hundred and nine.

Robert Baird, at the rate of ten dollars per month, to commence on the sixth day of May, eighteen hundred and nine.

George Tennell, at the rate of two dollars and fifty cents per month, to commence on the fifth day of December, eighteen hundred and eight.

Edward Lloyd, at the rate of thirteen dollars and thirty-three and one-third cents per month, to commence on the twenty-first day of June, eighteen hundred and nine.

John McChesney, at the rate of three dollars thirty-three and one-third cents per month, to commence on the twentieth day of February, eighteen hundred and ten.

Benjamin Strother, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the fifth day of October, eighteen hundred and nine.

George Cress, at the rate of two dollars and fifty cents per month, to commence on the seventh day of August, eighteen hundred and nine.

James Howard, at the rate of two dollars and fifty cents per month, to commence on the third day of July, eighteen hundred and nine.

Newman Laudman, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the twenty-fourth day of June, eighteen hundred and nine.

John Powell, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the twentieth of November, eighteen hundred and nine.

George Benedict, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the twenty-second day of November, eighteen hundred and nine.

Philip Philips, at the rate of two dollars and fifty cents per month, to commence on the twentieth day of November, eighteen hundred and nine.

Peter Conyne, at the rate of eight dollars per month, to commence on the twenty-eighth day of November, eighteen hundred and nine.

James Buxton, at the rate of four dollars per month, to commence on the twenty-second day of December, eighteen hundred and nine.

John Crookshanks, at the rate of two dollars and fifty cents per month, to commence on the twentieth day of December, eighteen hundred and nine.

John Gilbert, at the rate of two dollars and fifty cents per month, to commence on the second day of September, eighteen hundred and eight.

Simcon Gibbs, at the rate of two dollars and fifty cents per month, to commence on the twenty-eighth day of March, eighteen hundred and eight.

James Berry, at the rate of one dollar and sixty-six and two-third cents per month, to commence on the ninth day of September, eighteen hundred and nine.

James Warson, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the twenty-second day of September, eighteen hundred and nine.

Joseph Shayler, at the rate of twenty dollars per month, to commence on the twelfth day of February, eighteen hundred and nine.

James Munn, at the rate of ten dollars per month, to commence on the eighteenth day of March, eighteen hundred and nine.

Joseph Reed, at the rate of three dollars and thirty-three and one-third cents per month, to commence on the sixteenth day of March, eighteen hundred and nine.

Charles Kilgore, at the rate of two dollars and fifty cents per month, to commence on the twenty-eighth day of April, eighteen hundred and nine.

Ambrose Lewis, at the rate of two dollars and fifty cents per month, to commence on the nineteenth day of July, eighteen hundred and nine.

John Newman, at the rate of ten dollars per month, to commence on the twenty-seventh day of October, eighteen hundred and nine.

Joseph Noyes, at the rate of two dollars and fifty cents per month, to commence on the twenty-eighth day of January, eighteen hundred and nine.

Aaron Brinck, at the rate of five dollars per month, to commence on the twenty-sixth day of January, eighteen hundred and nine.

David Hamilton, at the rate of five dollars per month, to commence on the twenty-sixth day of January, eighteen hundred and nine.

Hackalia Doolittle, at the rate of two dollars and fifty cents per month, to commence on the twenty-fifth day of January, eighteen hundred and nine.

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Peter Harford, at the rate of two dollars and fifty cents per month, to commence on the eighth day of March, eighteen hundred and ten.

John Wood, at the rate of two dollars and fifty cents per month, to commence on the third day of March, eighteen hundred and ten.

Thomas Goodrum, at the rate of two dollars and fifty cents per month, to commence on the fourteenth day of March, eighteen hundred and ten.

John Smith, at the rate of four dollars per month, to commence on the twenty-eighth day of January, eighteen hundred and nine.

Jared Duncan, at the rate of five dollars per month, to commence on the eighth day of December, eighteen hundred and nine.

John Martin, at the rate of two dollars and fifty cents per month to commence on the twenty-first day of March, eighteen hundred and ten.

Gerardus Dingman, at the rate of five dollars per month to commence on the fifteenth day of January, eighteen hundred and ten.

Donald McDonald, at the rate of two dollars and fifty cents per month, to commence on the twentieth day of January, eighteen hundred and ten.

SEC. 2. *And be it further enacted*, That the pensions of the following persons already placed on the pension list of the United States, whose claims for an increase of pension have been transmitted to Congress, pursuant to the act aforesaid, be increased to the sums herein respectively annexed to their names: the said increase to commence at the times herein mentioned, that is to say:

William Little, five dollars per month, to commence on the twenty-second of November, eighteen hundred and nine.

Walker Baylor, twenty dollars per month, to commence on the twenty-ninth of December, eighteen hundred and eight.

Isaac Bennett, three dollars and thirty-three and one-third cents per month, to commence on the twenty-sixth of June, eighteen hundred and nine.

Thomas Carhart, five dollars per month, to commence on the twenty-first of February, eighteen hundred and nine.

David Weaver, five dollars per month, to commence on the fourth of September, eighteen hundred and nine.

Josias Smith, ten dollars per month, to commence on the eleventh of May, eighteen hundred and nine.

Abiel Knapp, three dollars and thirty-three and one-third cents per month, to commence on the twenty-seventh of October, eighteen hundred and eight.

Peter D. Demarest, five dollars per month, to commence on the seventh of January, eighteen hundred and nine.

Kerley Ward, three dollars and thirty-three and one-third cents per month, to commence on the tenth of January, eighteen hundred and nine.

John Utter, five dollars per month, to commence on the third of January, eighteen hundred and ten.

Lee Lay, six dollars and sixty-six and two-third cents per month, to commence on the fourth of December, eighteen hundred and nine.

Henry Cone, five dollars per month, to commence on the fourth of December, eighteen hundred and nine.

Elihu Sabin, three dollars thirty-three and one-third cents per month, to commence on the third of October, eighteen hundred and nine.

Simon Crosby, three dollars thirty-three and one-third cents per month, to commence on the twentieth of September, eighteen hundred and nine.

William Tarbell, three dollars per month, to commence on the third of June, eighteen hundred and nine.

Jeremiah Markham, five dollars per month, to commence on the third of June, eighteen hundred and nine.

John Wakelee, five dollars per month, to commence on the first of September, eighteen hundred and eight.

David Orcutt, five dollars per month, to commence on the fifteenth of March, eighteen hundred and nine.

Jedediah Brown, two dollars and fifty cents per month, to commence on the fourteenth of October, eighteen hundred and eight.

Stephen Hempstead, three dollars and seventy-five cents per month, to commence on the third of February, eighteen hundred and nine.

Isaac Finch, five dollars per month, to commence on the twenty-first of July, eighteen hundred and eight.

Richard Lamb, three dollars thirty-three and one-third cents per month, to commence on the first of May, eighteen hundred and eight.

Solomon Stark, three dollars and seventy-five cents per month, to commence on the thirteenth of February, eighteen hundred and nine.

Nathan Hawley, three dollars thirty-three and one-third cents per month, to commence on the twenty-sixth of May, eighteen hundred and eight.

Samuel French, five dollars per month, to commence on the twenty-sixth of May, eighteen hundred and eight.

Nero Hawley, three dollars, thirty-three and one-third cents per month, to commence on the twenty-sixth of May, eighteen hundred and eight.

Zeba Woodworth, five dollars per month, to commence on the fifth of September, eighteen hundred and nine.

Annianus Tubbs, two dollars fifty cents per month, to commence on the fifteenth of March, eighteen hundred and nine.

Jonas Adams, five dollars per month, to commence on the sixth of February, eighteen hundred and nine.

Moses Smith, five dollars per month, to commence on the ninth of February, eighteen hundred and ten.

Abraham Sawyer, two dollars and fifty cents per month, to commence on the sixteenth of November, eighteen hundred and nine.

Elias Barron, five dollars per month, to com-

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mence on the sixth of June, eighteen hundred and nine.

Richard Crouch, five dollars per month, to commence on the twelfth of April, eighteen hundred and nine.

Joseph Johnson, five dollars per month, to commence on the eighteenth of March, eighteen hundred and nine.

Jeremiah Robbins, three dollars thirty-three and one-third cents per month, to commence on the thirtieth of January, eighteen hundred and nine.

Abner Kent, five dollars per month, to commence on the thirtieth of January, eighteen hundred and nine.

James Cobey, five dollars per month, to commence on the sixteenth of May, eighteen hundred and nine.

George Vaughan, thirteen dollars thirty-three and one-third cents per month, to commence on the twelfth of January, eighteen hundred and ten.

Statts Hammond, five dollars per month, to commence on the eighteenth of December, eighteen hundred and nine.

Bartlett Hawkins, five dollars per month, to commence on the eighth of March, eighteen hundred and ten.

William Foster, five dollars per month, to commence on the sixteenth of December, eighteen hundred and nine.

Samuel Johnston, five dollars per month, to commence on the first day of January, eighteen hundred and nine.

SEC. 3. *And be it further enacted*, That the Secretary of War be and he is hereby directed to place Andrew Pinkerton on the pension list of invalid pensioners of the United States, and to pay him at the rate of three dollars and thirty cents and one-third of a cent per month, commencing on the twenty-fifth day of August, eighteen hundred and nine.

SEC. 4. *And be it further enacted*, That the several sums specifically appropriated by this act, shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, April 27, 1810.

An Act providing for the printing and distributing of such laws of the United States as respect the public lands.

Be it enacted, &c., That the President of the United States be and he is hereby authorized to cause to be collected in one volume, and arranged, the several laws of the United States, resolutions of the Congress under the Confederation, treaties and proclamations that have operation and respect to the public lands: and to cause twelve hundred copies to be printed, one of which shall be transmitted to each of the existing land boards of commissioners for settling land claims, and a copy to each of the registers and receivers of public moneys of the several land offices of the United States; and the residue of the said copies shall be preserved for the future disposition of Congress.

Approved, April 27, 1810.

An Act providing for the better accommodation of the General Post Office and Patent Office, and for other purposes.

Be it enacted, &c., That the President of the United States be and hereby is authorized to erect, or procure by purchase, a building suitable for the accommodation of the General Post Office and of the office of the keeper of the patents, in such situation and finished in such manner as the interest of the United States and the safety and convenience of those offices respectively, and the arrangement of the models in the Patent Office, shall in his opinion require.

SEC. 2. *And be it further enacted*, That the President of the United States be and hereby is authorized to cause the City Post Office and the offices of the Superintendent and Surveyor of the City of Washington to be immediately removed from the public building west of the President's House, and that he cause to be built within the said public building as many fire-proof rooms as shall be sufficient for the convenient deposit of all the public papers and records of the United States belonging to or in the custody of the State, War, or Navy Departments.

SEC. 3. *And be it further enacted*, That the sum of twenty thousand dollars be appropriated for the purposes expressed in this act, out of any moneys in the Treasury not otherwise appropriated.

Approved, April 28, 1810.

An Act providing for the sale of certain lands in the Indiana Territory, and for other purposes.

Be it enacted, &c., That all that tract of land to which the Indian title was extinguished by the treaty made at Fort Wayne on the thirtieth day of September, in the year one thousand eight hundred and nine, lying west and adjoining to the boundary line established by the Treaty of Greenville, shall be attached to and made a part of the district of Cincinnati; and the residue of the lands to which the Indian title was extinguished by the said treaty, and other treaties made at Vincennes in the same year, shall be attached to and made a part of the district of Vincennes. And the said lands, with the exception of section number sixteen, which shall be reserved in each township for the use of schools within the same, shall be offered for sale to the highest bidder, under the direction of the register of the land office, and of the receiver of public moneys, at the places respectively where the land offices are kept, and on such day or days as shall by proclamation of the President of the United States be designated for that purpose. The sales shall remain open at Cincinnati one week, and at Vincennes three weeks, and no longer. The lands shall not be sold for less than two dollars an acre, and shall in every other respect be sold in tracts of the same size, and on the same terms and conditions, as have been or may be provided for lands sold in the same districts. All the lands in the said tracts, with the exception abovementioned, remaining unsold at the close of the said sales, may be disposed of at private sale by the register of the respective

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land offices, in the same manner, under the same regulations, for the same price, and on the same terms and conditions, as are or may be provided by law for the sale of lands in the same districts; and patents shall be obtained in the same manner, and on the same terms, as for other public lands sold in the same districts.

SEC. 2. *And be it further enacted,* That the several superintendents of public sales, directed by this act, shall receive four dollars a day, for each day's attendance on the said sales.

SEC. 3. *And be it further enacted,* That, from and after the first day of June next, the second principal meridian by the Surveyor General in the Indiana Territory shall be the boundary between the districts of Vincennes and Jeffersonville; and the lands included in the said districts, respectively, according to the boundaries above-mentioned, shall become a part of the district in which they are included, and shall be sold at the same place, in the same manner, and on the same terms and conditions, as the other public lands lying in the same district.

SEC. 4. *And be it further enacted,* That any person or persons entitled to donation lands in the district of Vincennes by any former resolution or act of Congress, and who were minors, or did not reside within the Indiana Territory during the time allowed by law for registering claims to land within the said district, and whose claims have not heretofore been presented to either of the boards of commissioners for adjusting claims to land at Vincennes and Kaskaskia, may, until the first day of November next, give notice in writing to the register of the land office of the said district of their claims, and have the evidence of the same recorded in the same manner, and on payment of the fees provided by an act, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes;" and the right of any such persons neglecting to give such notice of his claim, and to have the evidence of the same recorded, shall become void, and forever be barred.

SEC. 5. *And be it further enacted,* That the register of the land office and the receiver of public moneys at Vincennes shall perform the same duties and exercise the same powers in relation to the claims filed with the register under this act, which by the last recited act were enjoined on or vested in the commissioners designated by the said act. And it shall also be the duty of the said register and receiver to make to the Secretary of the Treasury a report of all the claims thus filed with the register of the land office, together with the substance of the evidence adduced in support thereof, with such remarks thereon as they may think proper; which report, together with a list of the claims, which in the opinion of the register and receiver ought to be confirmed, shall be laid by the Secretary of the Treasury before Congress, at their next session, for their determination thereon. And the said register and receiver shall each be allowed an additional compensation of one hundred dollars, in full for their ser-

vices in relation to such claims, and one hundred dollars for clerk hire.

SEC. 6. *And be it further enacted,* That a tract of land in the Illinois Territory, at and including Shawneetown, on the Ohio river, shall, under the direction of the Surveyor General, be laid off into town lots, streets, and avenues, and into out lots, in such manner and of such dimensions as he may judge proper: *Provided,* The tract so to be laid off shall not exceed the quantity of land contained in two entire sections, nor the town lots one-quarter of an acre each. When the survey of the lots shall be completed, a plat thereof shall be returned to the Surveyor General, on which the town lots and out lots shall be respectively designated by progressive numbers, who shall cause two copies to be made—one to be transmitted to the Secretary of the Treasury, and the other to the register of the land office; and the lots shall be offered to the highest bidder at public sale, at the same time and place, on the same terms and conditions, (except as to the quantity of land,) as have or may be provided for the sale of the other public lands in the said Territory: *Provided,* That no town lot shall be sold for a less price than eight dollars, nor any out lot for less than at the rate of five dollars an acre.

Approved, April 30, 1810.

An Act to extend the time for making payments for public lands of the United States, in certain cases.

Be it enacted, &c., That every person who, prior to the first day of January, one thousand eight hundred and six, had purchased any tract or tracts of land of the United States, not exceeding in the whole six hundred and forty acres, at any of the land offices established for the disposal of said lands, whether such purchase was made at public or private sale, (sales by virtue of a pre-emption right only excepted,) and whose lands have not already been actually sold or reverted to the United States for non-payment of part of the purchase-money, and who shall, for the term of at least one year previous to the expiration of five years from the date of the purchase of the land, have actually inhabited and cultivated any one tract of land thus purchased, and the time for making the last payment on account of such purchase, according to former laws, may have expired or shall expire on or before the first day of January next, shall be allowed a further term of two years for the payment of the residue of the principal due on account of such purchase; which further term of two years shall be calculated to commence from the expiration of one year from and after the day on which the last payment on account of such purchase should, according to former laws, have become due, and shall be allowed only on the following conditions, that is to say: first, that all the arrears of interest on the land purchased to the end of one year, from and after the day on which the last payment on account of such purchase should, according to former laws, have become due, shall have been paid at or before the end of such year; second, that the resi-ue

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of the sum due on account of the principal of such purchase shall be paid, with interest thereon, in two equal annual payments, viz: one-half of the said residue, with the interest which may then be due thereon, within one year; and the other half of the said residue, with the interest which may then be due thereon, within two years after the expiration of one year, from and after the day on which the last payment on account of such purchase should, according to former laws, have become due. And in case of failure in paying either the arrears of interest, or each of the two instalments of principal, with the accruing interest, at the time and times abovementioned, the tract of land shall be forthwith advertised and offered for sale in the manner and on the terms and conditions now prescribed for the sale of lands purchased from the United States, and not paid for within the limited time; and shall revert in like manner to the United States, if the sum due, with interest, be not at such sale bidden and paid.

And in cases where any tract or tracts of land, not in the whole exceeding six hundred and forty acres, which have since the first day of January last reverted to the United States for default of payment, the original purchaser may again enter the same tract or tracts. And all moneys which such original purchaser may have paid shall be replaced to his credit by the receiver of public moneys of the respective land offices; and such repurchasers shall be allowed the same benefits of the extension of the time of payment, created by this act, as though no such reversion had occurred: *Provided*, Such original purchaser shall make to the proper land officer such application for such re-entry as is required by law for the entry of lands, on or before the first day of June next, and the land so reverted shall not have then been previously resold.

Approved, April 30, 1810.

An Act regulating the Post Office Establishment.

Be it enacted, &c., That there be established, at the seat of Government of the United States, a General Post Office, under the direction of a Postmaster General. The Postmaster General shall appoint two assistants, and such clerks as may be necessary for performing the business of his office. He shall establish post offices and appoint postmasters at all such places as shall appear to him expedient on the post roads that are or may be established by law. He shall give his assistants, the postmasters, and all other persons whom he shall employ, or who may be employed in any of the departments of the General Post Office, instructions relative to their duty. He shall provide for the carriage of the mail on all post roads that are or may be established by law, and as often as he, having regard to the productiveness thereof, and other circumstances, shall think proper. He may direct the route or road, where there are more than one between places designated by law for a post road, which route shall be considered the post road. He shall obtain from the postmasters their accounts and

vouchers for their receipts and expenditures once in three months, or oftener, with the balances thereon arising in favor of the General Post Office. He shall pay all expenses which may arise in conducting the Post Office, and in the conveyance of the mail, and all other necessary expenses arising on the collection of the revenue and management of the General Post Office. He shall prosecute offences against the Post Office Establishment. He shall once in three months render to the Secretary of the Treasury a quarterly account of all the receipts and expenditures in the said Department, to be adjusted and settled as other public accounts. He shall also superintend the business of the Department in all the duties that are or may be assigned to it: *Provided*, That, in case of the death, resignation, or removal from office, of the Postmaster General, all his duties shall be performed by his senior assistant, until a successor shall be appointed, and arrive at the General Post Office, to perform the business.

SEC. 2. And be it further enacted, That the Postmaster General, and all other persons employed in the General Post Office, or in the care, custody, or conveyance, of the mail, shall, previous to entering upon the duties assigned to them, or the execution of their trusts, and before they shall be entitled to receive any emolument therefor, respectively take and subscribe the following oath or affirmation, before some magistrate, and cause a certificate thereof to be filed in the General Post Office: "I, A B, do swear (or affirm, as the case may be) that I will faithfully perform all the duties required of me, and abstain from everything forbidden by the laws in relation to the establishment of the Post Office and post roads within the United States." Every person who shall be in any manner employed in the care, custody, conveyance, or management, of the mail, shall be subject to all the pains, penalties, and forfeitures, for violating the injunctions, or neglecting the duties required of him by the laws relating to the establishment of the Post Office and post roads, whether such person shall have taken the oath or affirmation above prescribed or not.

SEC. 3. And be it further enacted, That it shall be lawful for the Postmaster General to provide by contract for the carriage of the mail on any road on which a stage, wagon, or other stage carriage, shall be established, on condition that the expense thereof shall not exceed the revenue thence arising. It shall also be lawful for the Postmaster General to enter into contracts, for a term not exceeding eight years, for extending the line of posts, and to authorize the persons so contracting, as a compensation for their expenses, to receive during the continuance of such contracts, at rates not exceeding those for like distances established by this act, all the postage which shall arise on letters, newspapers, magazines, pamphlets, and packets, conveyed by any such posts; and the roads designated in such contracts shall, during the continuance thereof, be deemed and considered as post roads within the provision of this act: And a duplicate of every such contract shall, within sixty days after the execution thereof, be

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lodged in the office of the Comptroller of the Treasury of the United States.

SEC. 4. *And be it further enacted*, That no other than a free white person shall be employed in carrying the mail of the United States on any of the post roads, either as a post-rider or driver of a carriage carrying the mail; and every contractor or person who shall have stipulated or may hereafter stipulate to carry the mail, or whose duty it shall be to cause the same to be conveyed on any of the post roads as aforesaid, and who shall, contrary to this act, employ any other than a free white person as a post-rider or driver, or in any other way to carry the mail on the same, shall for every such offence forfeit and pay the sum of fifty dollars—one moiety thereof to the use of the United States, and the other moiety thereof to the person who shall sue for and prosecute the same, before any court having competent jurisdiction thereof.

SEC. 5. *And be it further enacted*, That the Postmaster General shall be authorized to allow the postmasters at the several distributing offices such compensation as shall be adequate to their several services in that respect: *Provided*, That the same shall not exceed, in the whole, five per cent. on the whole amount of postages on letters and newspapers received for distribution: *Provided, also*, That if the number of mails received at and despatches from any such office is not increased by the distributing system, then no additional allowance shall be made to the postmaster.

SEC. 6. *And be it further enacted*, That, whenever it shall be made to appear to the satisfaction of the Postmaster General that any road established, or which may hereafter be established, as a post road, is obstructed by fences, gates, or bars, other than those lawfully used on turnpike roads to collect their toll, and not kept in good repair, with proper bridges and ferries where the same may be necessary, it shall be the duty of the Postmaster General to report the same to Congress, with such information as can be obtained, to enable Congress to establish some other road instead of it, in the same main direction.

SEC. 7. *And be it further enacted*, That, if any person shall knowingly and wilfully obstruct or retard the passage of the mail, or of any driver or carrier, or of any horse or carriage carrying the same, he shall, upon conviction, for every such offence, pay a fine not exceeding one hundred dollars. And if any ferryman shall by wilful negligence or refusal to transport the mail across any ferry, delay the same, he shall forfeit and pay for each ten minutes that the same shall be so delayed, a sum not exceeding ten dollars.

SEC. 8. *And be it further enacted*, That it shall be the duty of the Postmaster General to give public notice in one or more of the newspapers published at the seat of Government of the United States, and in one or more of the newspapers published in the State or States or Territory where the contract is to be performed, for at least six weeks before entering into any contract for carrying the mail, that such contract is intended to be made, and the day on which it is to be con-

cluded, describing the places from and to which such mail is to be conveyed, the time at which it is to be made up, and the day and hour at which it is to be delivered. He shall, moreover, within ninety days after the making of any contract, lodge a duplicate thereof, together with the proposals which he shall have received respecting it, in the office of the Comptroller of the Treasury of the United States: *Provided*, That no contract shall be entered into for a longer term than four years.

SEC. 9. *And be it further enacted*, That every postmaster shall keep an office, in which one or more persons shall attend on every day on which a mail or bag or other packet or parcel of letters shall arrive by land or water, as well as on other days, at such hours as the Postmaster General shall direct, for the purpose of performing the duties thereof; and it shall be the duty of the postmaster, at all reasonable hours, on every day of the week, to deliver on demand any letter, paper, or packet, to the person entitled to or authorized to receive the same; and all letters brought to any post office half an hour before the time of making up the mail at such office shall be forwarded therein, except at such post offices where, in the opinion of the Postmaster General, it requires more time for making up the mail, and which he shall accordingly prescribe; but this shall in no case exceed one hour.

SEC. 10. *And be it further enacted*, That no fees or perquisites shall be received by any person employed in the General Post Office on account of the duties to be performed by virtue of his appointment.

SEC. 11. *And be it further enacted*, That the following rates of postage shall be charged on all letters and packets (excepting such as are hereinafter exempted) conveyed by the posts of the United States, viz: for every letter composed of a single sheet of paper, conveyed not exceeding forty miles, eight cents; over ninety, and not exceeding one hundred and fifty miles, twelve and a half cents; over one hundred and fifty, and not exceeding three hundred miles, seventeen cents; over three hundred, and not exceeding five hundred miles, twenty cents; over five hundred miles, twenty-five cents. And for every double letter, or one composed of two pieces of paper, double those rates; and for every triple letter, or one composed of three pieces of paper, triple those rates; and for every packet composed of four or more pieces of paper, or other thing, and weighing one ounce avoirdupois, quadruple those rates, and in that proportion for all greater weight: *Provided*, That no packet of letters conveyed by the water mail shall be charged with more than quadruple postage, unless the same shall actually contain more than four distinct letters. No postmaster shall be obliged to receive, to be conveyed by the mail, any packet which shall weigh more than three pounds: And the postage marked on any letter or package, and charged on the post bill, which may accompany the same, shall, in favor of the postmaster who delivers out said letter, be conclusive evidence of the lawful

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postage thereon, unless said letter shall be opened in the presence of the said postmaster or his clerk.

SEC. 12. *And be it further enacted,* That every letter or packet brought into the United States, or carried from one port therein to another, in any private ship or vessel, shall be charged with six cents, if delivered at the post office where the same shall arrive, and if destined to be conveyed by post to any other place, with two cents added to the ordinary rates of postage.

SEC. 13. *And be it further enacted,* That if any postmaster, or other person authorized by the Postmaster General to receive the postage of letters, shall fraudulently demand or receive any rate of postage, or gratuity, or reward, other than is provided by this act, for the postage of letters or packets; on conviction thereof he shall forfeit, for every such offence, one hundred dollars, and shall be rendered incapable of holding any office or appointment under the Government of the United States.

SEC. 14. *And be it further enacted,* That no ship or vessel arriving at any port within the United States, where a post office is established, shall be permitted to report, make entry, or break bulk, until the master or commander shall have delivered to the postmaster all letters directed to any person or persons within the United States, or the Territories thereof, which, under his care, or within his power, shall be brought in such ship or vessel, except such as are directed to the owner or consignee of the ship or vessel, and except also such as are directed to be delivered at the port of delivery to which such ship or vessel may be bound. And it shall be the duty of the collector, or other officer of the port, empowered to receive entries of ships or vessels, to require from every master or commander of such ship or vessel, an oath or affirmation, purporting that he has delivered all such letters, except as aforesaid. And if the commander or master of any ship or vessel shall break bulk before he shall have complied with the requirements of this act, every such offender shall, on conviction thereof, forfeit for every such offence a sum not exceeding one hundred dollars.

SEC. 15. *And be it further enacted,* That the postmasters to whom such letters may be delivered, shall pay to the master or commander, or other person, delivering the same, except the commanders of foreign packets, two cents for each letter or packet, and shall obtain from the person delivering the same, a certificate specifying the number of letters and packets, with the name of the ship or vessel, and the place from whence she last sailed; which certificate, together with a receipt for the money, shall be, with his quarterly accounts, transmitted to the Postmaster General, who shall credit him with the amount.

SEC. 16. *And be it further enacted,* That if any person, other than the Postmaster General or his deputies, or persons by them employed, shall be concerned in setting up or maintaining any foot or horse post, stage wagon, or other stage carriage or sleigh, on any established post roads, or from one post town to another post town, on

any road adjacent or parallel to an established post road, or any packet boat or vessel to ply regularly from one place to another, between which a regular communication by water shall be established by the United States, and shall receive any letter or packet, other than newspapers, magazines, or pamphlets, and carry the same by such foot or horse post, stage wagon, or other stage carriage, or sleigh, packet boat, or vessel, (excepting only such letter or letters as may be directed to the owner or owners of such conveyance, and relating to the same, or to the person to whom any packet or bundle in such conveyance is intended to be delivered,) every person so offending shall forfeit for every such offence the sum of fifty dollars: *Provided,* That it shall be lawful for any person to send letters or packets by a special messenger.

SEC. 17. *And be it further enacted,* That the deputy postmasters and other agents of the Postmaster General shall duly account and answer to him, for all way-letters which shall come to their hands; and for this purpose the post riders and carriers of the mail, receiving any way-letter or letters (and it shall be their duty to receive them, if presented more than two miles from a post office) shall deliver the same, together with the postage, if paid, at the post office to which they shall afterwards arrive, where the postmaster shall duly enter the same, and specify the number and rate or rates in the post bill, adding to the rate of each way-letter, one cent, which shall be paid by the postmaster to the mail carrier from whom such way-letters shall be received. And that letters directed to persons living between post offices may be delivered, and the postage thereof duly collected, it shall be the duty of the carriers of the mail to take charge of, and deliver all such letters as shall for that purpose be committed to them by any postmaster, and collect the postage thereof, which shall be paid over to such postmaster on demand. And for every letter so delivered, the mail carrier delivering the same shall be allowed to demand and receive two cents to his own use, besides the ordinary postage. And if any postmaster or other agent of the Postmaster General shall neglect so to account, he or they so offending shall, on conviction thereof, forfeit for every such offence a sum not exceeding fifty dollars: *Provided,* That no mail carrier shall make such deliveries at any place not on the post road: *Provided, also,* That the receipt and delivery of letters on the way, between post offices, shall not be required of the mail carriers in cases where, in the opinion of the Postmaster General, the time or manner of carrying the mail, or the speed of conveyance, is incompatible with such receipts and deliveries.

SEC. 18. *And be it further enacted,* That if any person, employed in any of the departments of the General Post Office, shall unlawfully detain, delay or open any letter, packet, bag, or mail of letters, with which he shall be entrusted, or which shall have come to his possession, and which are intended to be conveyed by post, or if any such person shall secrete, embezzle, or de-

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stroy any letter or packet entrusted to him as aforesaid, and which shall not contain any security for, or assurance relating to money, as hereinafter described, every such offender, being thereof duly convicted, shall, for every such offence, be fined, not exceeding three hundred dollars, or imprisoned, not exceeding six months, or both, according to the circumstances and aggravations of the offence. And if any person, employed as aforesaid, shall secrete, embezzle, or destroy any letter, packet, bag, or mail of letters, with which he shall be entrusted, or which shall have come to his possession, and are intended to be conveyed by post, containing any bank note or bank post bill, bill of exchange, warrant of the Treasury of the United States, note of assignment of stock in the funds, letters of attorney for receiving annuities or dividends, or for selling stock in the funds, or for receiving the interest thereof, or any letter of credit, or note for or relating to payment of moneys, or any bond or warrant, draft, bill, or promissory note, covenant, contract, or agreement whatsoever, for or relating to the payment of money, or the delivery of any article of value, or the performance of any act, matter, or thing, or any receipt, release, acquittance, or discharge, or of from any debt, covenant, demand, or any part thereof, or any copy of any record of any judgment or decree, in any court of law or chancery, or any execution which may have issued thereon, or any copy of any other record, or any other article of value, or any writing representing the same; or if any such person, employed as aforesaid, shall steal or take any of the same out of any letter, packet, bag, or mail of letters, that shall come to his possession, he shall, on conviction, for any such offence, be imprisoned not exceeding ten years. And if any person, who shall have taken charge of the mail of the United States, shall quit or desert the same, before he delivers it into the post office kept at the termination of his route, or to some known mail carrier, or agent of the General Post Office authorized to receive the same, every such person, so offending, shall forfeit and pay a sum not exceeding five hundred dollars for every such offence. And if any person, concerned in carrying the mail of the United States, shall collect, receive or carry any letter or packet, or shall cause or procure the same to be done, contrary to this act, every such offender shall forfeit and pay, for every such offence, a sum not exceeding fifty dollars.

SEC. 19. *And be it further enacted*, That if any person shall rob any carrier of the mail of the United States, or other person entrusted therewith, of such mail, or of part thereof, such offender or offenders shall, on conviction, be imprisoned, not exceeding ten years, and if convicted a second time of a like offence, he or they shall suffer death; or, if in effecting such robbery of the mail the first time, the offender shall wound the person having custody thereof, or put his life in jeopardy by the use of dangerous weapons, such offender or offenders shall suffer death. And if any person shall attempt to rob the mail of the United

States by assaulting the person having custody thereof, shooting at him, or his horse, or mule, or threatening him with dangerous weapons, and the robbery is not effected, every such offender, on conviction thereof, shall be punished by imprisonment, not exceeding three years. And if any person shall steal the mail, or shall steal or take from or out of any mail, or from or out of any post office, any letter or packet, or if any person shall take the mail, or any letter or packet therefrom or from any post office, whether with or without the consent of the person having custody thereof, and shall open, embezzle, or destroy any such mail, letter, or packet, the same containing any article of value, or evidence of any debt, due, demand, right, or claim, or any release, receipt, acquittance, or discharge, or any other article, paper, or thing mentioned and described in the eighteenth section of this act, or if any person shall, by fraud or deception, obtain, from any person having custody thereof, any mail, letter, or packet, containing any article of value, or evidence thereof, or either of the writings referred to, or next above-mentioned, such offender or offenders, on conviction thereof, shall be imprisoned, not exceeding seven years. And if any person shall take any letter or packet not containing any article of value, or evidence thereof, out of a post office, or shall open any letter or packet which shall have been in a post office, or in the custody of a mail carrier, before it shall have been delivered to the person to whom it is directed, with a design to obstruct the correspondence, to pry into another's business or secrets, or shall secrete, embezzle, or destroy any such mail, letter, or packet, such offender, upon conviction, shall pay for every such offence a sum not exceeding five hundred dollars.

SEC. 20. *And be it further enacted*, That if any person shall rip, cut, tear, burn, or otherwise injure any portmanteau, valise, or other bag, used, or designed to be used by any person acting under the authority of the Postmaster General, or any person in whom his powers are vested in the conveyance of any mail, letter, packet, newspaper, or pamphlet, or shall draw or break any staple, or loosen any part of any lock, chain, or strap, attached or belonging to any such valise, portmanteau, or bag, with an intent to rob or steal any mail, letter, packet, newspaper, or pamphlet, or to render either of the same insecure, every such offender, upon conviction, shall, for every such offence, pay a sum not exceeding five hundred dollars, or be imprisoned not exceeding three years, at the discretion of the court before whom such conviction is had.

SEC. 21. *And be it further enacted*, That every person who, from and after the passage of this act, shall procure, aid, advise, or assist in the doing or perpetration of any of the acts or crimes by this act forbidden to be done or performed, shall be subject to the same penalties and punishments as the persons are subject to who shall actually do or perpetrate any of said acts or crimes, according to the provisions of this act.

SEC. 22. *And be it further enacted*, That every

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person who shall be imprisoned by a judgment of court, under and by virtue of the eighteenth, nineteenth, twentieth, or twenty-first section of this act, shall be kept at hard labor during the period of such imprisonment.

SEC. 23. *And be it further enacted*, That the postmasters shall, respectively, publish at the expiration of every three months, or oftener, when the Postmaster General shall so direct, in one of the newspapers published at or nearest the place of his residence, for three successive weeks, a list of all the letters remaining in their respective offices, or, instead thereof, shall make out a number of such lists, and cause them to be posted at such public places in their vicinity, as shall appear to them best adapted for the information of the parties concerned; and at the expiration of the next three months, shall send such of the said letters as then remain on hand, as dead letters, to the General Post Office, where the same shall be opened and inspected; and if any valuable papers, or matter of consequence shall be found therein, it shall be the duty of the Postmaster General to return such letter to the writer thereof, or cause a descriptive list thereof to be inserted in one of the newspapers published at the place most convenient to the supposed residence of the owner, if within the United States; and such letter, and the contents, shall be preserved to be delivered to the person to whom the same shall be addressed, upon payment of the postage and the expense of publication. And if such letter, with its contents, be not demanded by the person to whom it is addressed, or the owner thereof, or his lawful agent, within two years after the advertisement thereof, as aforesaid, the said contents shall be applied to the use of the United States, until the same shall be reclaimed by the proprietor thereof; the manner of such application to be stated by the Postmaster General to the Secretary of the Treasury.

SEC. 24. *And be it further enacted*, That letters and packets to and from the following officers of the United States, shall be received and conveyed by post, free of postage: each postmaster, provided each of his letters or packets shall not exceed half an ounce in weight; each member of the Senate, and each member and delegate of the House of Representatives to the Congress of the United States; the Secretary of the Senate, and Clerk of the House of Representatives, provided each letter or packet shall not exceed two ounces in weight, and during their actual attendance in any session of Congress, and twenty days after such session, and in case of excess of weight, that excess alone shall be paid for; the President of the United States; Vice President, the Secretaries of State, of the Treasury, of War, of the Navy; the Attorney General, the Comptroller, Treasurer, Auditor, Register, Supervisor of the Direct Tax for the district of South Carolina, Superintendent of Indian Trade, Purveyor, the Inspector and Paymaster of the Army, Accountants of the War and Navy Departments, Postmaster General, and the Assistants Postmaster General; John Adams, a former President of the

United States; and Thomas Jefferson, late President of the United States; and they may all receive their newspapers by post, free of postage: *Provided*, That the members of the Senate and House of Representatives, Secretary of the Senate, and Clerk of the House of Representatives, shall receive their newspapers free of postage, only during any session of Congress, and twenty days after the expiration of the same; *And, provided*, That no letter or packet from any public officer, shall be conveyed by post, free of postage, unless he shall frank the same, by writing his name and office on the outside of such letter or packet, and until he has previously furnished the postmaster of the office where he shall deposite the same with a specimen of his signature.

SEC. 25. *And be it further enacted*, That if any person shall frank letters other than those written by himself, or by his order, on the business of his office, he shall, on conviction thereof, pay a fine of ten dollars; *Provided*, That the Secretary of the Treasury, Secretary of State, Secretary of War, Secretary of the Navy, and Postmaster General, may frank letters or packets on official business, prepared in any other public office in the absence of the principal thereof. And if any person having the right to receive his letters free of postage, shall receive, enclosed to him, any letter or packet addressed to a person not having that right, it shall be his duty to return the same to the post office, marking thereon the place from whence it came, that it may be charged with postage. And if any person shall counterfeit the handwriting or frank of any person, or cause the same to be done, in order to avoid the payment of postage, each person so offending shall pay for every such offence fifty dollars.

SEC. 26. *And be it further enacted*, That every printer of newspapers may send one paper to each and every other printer of newspapers within the United States, free of postage, under such regulations as the Postmaster General shall provide.

SEC. 27. *And be it further enacted*, That all newspapers conveyed in the mail shall be under cover, open at one end, and charged with a postage of one cent each, for any distance not more than one hundred miles, and one and a half cents for any greater distance: *Provided*, That the postage of a single newspaper from any one place to another, in the same State, shall not exceed one cent; and that the Postmaster General shall require those who receive newspapers by post, to pay always the amount of one quarter's postage in advance. If any person employed in any department of the Post Office shall improperly detain, delay, or embezzle, or destroy any newspaper, or shall permit any other person to do the like, or shall open, or permit any other to open any mail or packet of newspapers not directed to the office where he is employed, he shall, on conviction thereof, forfeit a sum not exceeding fifty dollars for every such offence. And if any other person shall open any mail or packet of newspapers, or shall embezzle or destroy the same, not

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being directed to himself, or not being authorized to receive and open the same, he shall, on conviction thereof, pay a sum not exceeding twenty dollars for every such offence. And if any person shall take or steal any packet, bag, or mail of newspapers, from or out of any post office, or from any person having custody thereof, such person shall, on conviction, be imprisoned, not exceeding three months for every such offence, to be kept at hard labor during the period of such imprisonment. If any person shall enclose or conceal a letter or other thing, or any memorandum in writing in a newspaper or among any package of newspapers, which he shall have delivered into any post office, or to any person for that purpose, in order that the same may be carried by post, free of letter postage, he shall forfeit the sum of five dollars for every such offence; and the letter, newspaper, package, or memorandum, or other thing, shall not be delivered to the person to whom it is directed until the amount of single letter postage is paid for each article of which the package shall be composed. No newspapers shall be received by the postmasters to be conveyed by post, unless they are sufficiently dried and enclosed, in proper wrappers, on which, beside the direction, shall be noted the number of papers which are enclosed for subscribers and the number for printers. The Postmaster General, in any contract he may enter into for the conveyance of the mail, may authorize the person with whom such contract is to be made, to carry newspapers, magazines, and pamphlets, other than those conveyed in the mail. When the mode of conveyance and the size of the mails will admit of it, magazines and pamphlets may be transported in the mail at one cent a sheet, for any distance not exceeding fifty miles, at one cent and an half for any distance over fifty and not exceeding one hundred miles, and two cents for any greater distance.

SEC. 28. *And be it further enacted*, That the Postmaster General be authorized to allow to the postmasters, respectively, such commission on the moneys arising from the postage of letters and packets as shall be adequate to their respective services and expenses: *Provided*, That the said commission shall not exceed thirty per cent. on the first hundred dollars collected in one quarter, and twenty-five per cent. on a sum over one hundred and not more than three hundred; and twenty per cent. on any sum over four hundred and not exceeding two thousand dollars; and eight per cent. on any sum collected, being over two thousand four hundred dollars; except to the postmaster who may be employed in receiving and dispatching foreign mails, whose compensation may be augmented, not exceeding twenty-five dollars, in one quarter, and excepting to the postmasters at offices where the mail is regularly to arrive, between the hours of nine o'clock at night and five o'clock in the morning; whose commission on the first hundred dollars collected in one quarter, may be increased to a sum not exceeding fifty per cent. The Postmaster General may allow to the postmasters, respectively, a

commission of fifty per cent. on the money arising from the postage of newspapers, magazines, and pamphlets; and to the postmasters, whose compensation shall not exceed five hundred dollars in one quarter, two cents for every free letter delivered out of the office, excepting such as are for the postmaster himself; and each postmaster who shall be required to keep a register of the arrival and departure of the mails, shall be allowed ten cents for each monthly return which he makes thereof to the General Post Office.

SEC. 29. *And be it further enacted*, That if any postmaster or other person authorized to receive the postage of letters and packets shall neglect or refuse to render his accounts, and pay over to the Postmaster General the balance by him due at the end of every three months, it shall be the duty of the Postmaster General to cause a suit to be commenced against the person or persons so neglecting or refusing; and if the Postmaster General shall not cause such suit to be commenced within six months from the end of every such three months, the balances due from every such delinquent shall be charged to and recoverable from the Postmaster General. That all suits which shall be hereafter commenced for the recovery of debts or balances due to the General Post Office, whether they appear by bond or obligations made in the name of the existing or any preceding Postmaster General, or otherwise, shall be instituted in the name of the "Postmaster General of the United States." That certified copies, under the seal of the General Post Office, of the accounts current of the several postmasters, after the same shall have been examined and adjusted at that office, shall be admitted as evidence in all suits brought by the Postmaster General for the recovery of balances or debts due from postmasters, and, in like manner, copies of such accounts current as are lodged in the office of the Register of the Treasury, certified by the Register under the seal of his office, shall be admitted as evidence.

SEC. 30. *And be it further enacted*, That if any postmaster or other person who shall receive and open, or dispatch mails, shall neglect to render accounts for one month after the time, and in the form and manner prescribed by law, and by the Postmaster General's instructions conformable therewith, he shall forfeit double the value of the postages which shall have arisen at the same office in any equal portion of time previous or subsequent thereto; or in case no account shall have been rendered at the time of trial of such case, then such sum as the court or jury shall estimate equivalent thereto, to be recovered by the Postmaster General in an action on the case.

SEC. 31. *And be it further enacted*, That all pecuniary penalties and forfeitures, incurred under this act, shall be one half for the use of the person or persons informing and prosecuting for the same, and the other half to the use of the United States.

SEC. 32. *And be it further enacted*, That it shall be lawful for the Postmaster General to make provision, where it may be necessary, for

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the receipt of all letters and packets intended to be conveyed by any ship or vessel beyond sea, or from any port in the United States, to another port therein; and the letters so received shall be formed into a mail, sealed up and directed to the postmaster of the port to which such ship or vessel shall be bound. And for every letter or packet so received, there shall be paid at the time of its reception, a postage of one cent, which shall be for the use of the postmasters, respectively, receiving the same. And the Postmaster General may make arrangements with the postmasters in any foreign country, for the reciprocal receipt and delivery of letters and packets through the post offices.

SEC. 33. *And be it further enacted*, That the postmasters and the persons employed in the transportation of the mail shall be exempt from militia duties, and serving on juries, or any fine or penalty for neglect thereof.

SEC. 34. *And be it further enacted*, That letter carriers shall be employed at such post offices as the Postmaster General shall direct, for the delivery of letters in the places, respectively, where such post offices are established; and for the delivery of each such letter, the letter carrier may receive of the person to whom the delivery is made, two cents: *Provided*, That no letter shall be delivered to such letter carrier for distribution, addressed to any person who shall have lodged at the post office a written request that his letters shall be detained in the office. And for every letter lodged at any post office, not to be carried by post, but to be delivered at the place where it is to be so lodged, the postmaster shall receive one cent of the person to whom it shall be delivered.

SEC. 35. *And be it further enacted*, That all causes of action arising under this act may be sued, and all offenders against this act may be prosecuted, before the justices of the peace, magistrates and other judicial courts of the several States, and of the several Territories of the United States, they having competent jurisdiction by the laws of such States or Territories, to the trial of claims and demands of as great value, and of the prosecutions where the punishments are of as great extent; and such justices, magistrates, or judiciary, shall take cognizance thereof, and proceed to judgment and execution, as in other cases.

SEC. 36. *And be it further enacted*, That in all suits or causes arising under this act, the court shall proceed to trial, and render judgment the first term after such suit shall be commenced; *Provided always*, That whenever service of the process shall not have been made twenty days at least previous to the return day of such term, the defendant shall be entitled to one continuance, if the court, on the statement of such defendant, shall judge it expedient: *Provided also*, That if the defendant in such suits shall make affidavit that he has a claim against the General Post Office, not allowed by the Postmaster General, although submitted to him conformably to the regulations of the Post Office, and shall specify such claim in the affidavit, and that he could not

be prepared for the trial at such term for want of evidence, the court in such case, being satisfied in those respects, may grant a continuance until the next succeeding term.

SEC. 37. *And be it further enacted*, That it shall be the duty of the Postmaster General to report, annually to Congress, every post road which shall not, after the second year from its establishment, have produced one-third of the expense of carrying the mail on the same.

SEC. 38. *And be it further enacted*, That there shall be allowed to the deputy postmaster, at the City of Washington, for his extraordinary expenses, incurred in the discharge of the duties of his office, an additional compensation, at the rate of one thousand dollars per annum, to be paid out of the funds of the Post Office Establishment.

SEC. 39. *And be it further enacted*, That the Adjutant General of the militia of each State and Territory shall have the right to receive, by mail, free of postage, from any Major or Brigadier General thereof, and to transmit to said Generals, any letter or packet, relating solely to the militia of such State or Territory: *Provided, always*, That every such officer, before he delivers any such letter or package for transmission, shall, in his own proper handwriting, on the outside thereof, endorse the nature of the papers enclosed, and thereto subscribe his name and office, and shall previously furnish the postmaster of the office where he shall deposite the same with a specimen of his signature. And if any such officer shall frank any letter or package in which shall be contained anything relative to any subject other than of the militia of such State or Territory, every offender shall, on conviction of every such offence, forfeit and pay a fine of fifty dollars.

SEC. 40. *And be it further enacted*, That from and after the thirtieth day of September next, whenever the annual emoluments of any postmaster, after deducting therefrom the expenditures incident to his office, shall amount to more than two thousand dollars, the surplus shall be accounted for, and paid to the Postmaster General, and by him to be accounted for in the same manner as other moneys accruing from the Post Office Establishment.

SEC. 41. *And be it further enacted*, That every deputy postmaster, the receipt of whose office exceeds one thousand dollars a year, shall, on the last day of September in each year, transmit to the Postmaster General of the United States a statement of the expenses of the office under his direction, of the number of clerks, with the time they have been severally employed therein, and their respective names and ages.

SEC. 42. *And be it further enacted*, That, from and after the first day of June next, the second section of an act, entitled "An act to establish the Post Office and post roads within the United States," approved on the eighth day of May, one thousand seven hundred and ninety-four, and an act, entitled "An act to establish the Post Office of the United States," approved on the second day of March, one thousand seven hundred and ninety-nine, and all other acts and parts of acts

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heretofore passed for the regulation and government of the General Post Office, and of the Postmaster General, and other officers and agents employed in said office, shall be, and the same are hereby, repealed: *Provided*, That an act, entitled "An act concerning public contracts," approved on the twenty-first day of April, one thousand eight hundred and eight, shall be and remain in full force, and no post road heretofore established shall be discontinued by this act: *Provided, also*, That nothing herein contained shall be construed to exonerate any person who shall not have performed the duty, or who shall have violated any of the prohibitions contained in the said acts from suits or prosecutions; but, as to all bonds, contracts, debts, demands, rights, penalties, punishments, which have been made, have arisen, or have been incurred, or which shall be made, arise, or be incurred previous to the first day of June next, the said acts shall have the same force and effect as though this act had not been made: *Provided, likewise*, That the Postmaster General, Assistant Postmaster General, deputy postmasters, contractors for carrying the mail, and others employed under the aforesaid acts, shall continue to hold their several offices, appointments, and trusts, until they are otherwise removed; anything herein contained that might be construed to the contrary, notwithstanding; and also the bonds which they, or either of them, have given or may give for the faithful execution of their several duties and offices, shall continue to have the same force and effect, to all intents and purposes, as though this act had not been made.

Approved, April 30, 1810.

An Act further to alter and amend "An act providing for the Third Census, or enumeration of the inhabitants of the United States."

Be it enacted, &c., That so much of the first section of the act, passed during the present session of Congress, entitled "An act providing for the third census or enumeration of the inhabitants of the United States," as relates to the forms of the oaths or affirmations thereby directed to be taken by the marshals, secretaries, and assistants therein mentioned, respectively, shall be, and hereby is, repealed; and that the said oaths or affirmations shall be in the following forms, that is to say: The marshals' and secretaries' oath, in the form following: "I, A B, marshal of the district of —, (or secretary of the Territory of —, as the case may be,) do solemnly swear, or affirm, that I will well and truly cause to be made a just and perfect enumeration and description of all persons resident within my district, (or Territory,) and return the same to the Secretary of State, agreeably to the directions of the several acts of Congress, providing for the third census or enumeration of the inhabitants of the United States, according to the best of my ability." And the assistants' oath or affirmation, in the form following: "I, A B, do solemnly swear, or affirm, that I will make a just and perfect enumeration and description of all persons resident within the division assigned to me for that purpose, by the

marshal of —, (or the secretary of the Territory of —, as the case may be,) and make due return thereof to the said marshal, (or secretary,) agreeably to the directions of the several acts of Congress providing for the third census or enumeration of the inhabitants of the United States, according to the best of my ability."

Sec. 2. And be it further enacted, That it shall be the duty of the several marshals, secretaries, and their assistants aforesaid, at the time for taking the census or enumeration aforesaid, to take, under the direction of the Secretary of the Treasury, and according to such instructions as he shall give, an account of the several manufacturing establishments and manufactures within their several districts, Territories, and divisions. The said assistants shall make return of the same to the marshals or secretaries of their respective districts or Territories, and the said marshals and secretaries shall transmit the said returns, and abstracts thereof, to the Secretary of the Treasury, at the same times at which they are by this act, and the several acts to which this act is an addition, required, respectively, to make their return of said enumeration to the Secretary of State; for the performance of which additional services they shall, respectively, receive such compensation as shall hereafter be provided by law.—Approved, May 1, 1810.

An Act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes.

Be it enacted, &c., That, from and after the passage of this act, no British or French armed vessel shall be permitted to enter the harbors or waters under the jurisdiction of the United States; but every British and French armed vessel is hereby interdicted, except when they shall be forced in by distress, by the dangers of the sea, or when charged with despatches or business from their Government, or coming as a public packet for the conveyance of letters; in which cases, as well as in all others, when they shall be permitted to enter, the commanding officer shall immediately report his vessel to the collector of the district, stating the object or causes of his entering the harbors or waters of the United States; and shall take such position therein as shall be assigned him by such collector; and shall conform himself, his vessel and crew, to such regulations respecting health, repairs, supplies, stay, intercourse, and departure, as shall be signified to him by the said collector, under the authority and directions of the President of the United States; and, not conforming thereto, shall be required to depart from the United States.

Sec. 2. And be it further enacted, That all pacific intercourse with any interdicted foreign armed vessels, the officers or crew thereof, is hereby forbidden; and if any person shall afford any aid to such armed vessel either in repairing her, or in furnishing her, her officers or crew, with supplies of any kind or in any manner whatsoever, or if any pilot shall assist in navigating the said armed vessel, contrary to this prohibition, unless

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for the purpose of carrying her beyond the limits and jurisdiction of the United States, the person or persons so offending, shall be liable to be bound to their good behaviour, and shall moreover forfeit and pay a sum not exceeding two thousand dollars, to be recovered upon indictment or information, in any court of competent jurisdiction; one moiety thereof to the Treasury of the United States, and the other moiety to the person who shall give information and prosecute the same to effect: *Provided*, That if the prosecution shall be by public officer the whole forfeiture shall accrue to the Treasury of the United States.

SEC. 3. *And be it further enacted*, That all the penalties and forfeitures which may have been incurred under the act entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," and also all the penalties and forfeitures which may have been incurred under the act laying an embargo on all ships and vessels in the ports and harbors of the United States, or under any of the several acts supplementary thereto, or to enforce the same, or under the acts to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes, shall be recovered and distributed, and may be remitted in the manner provided by the said acts respectively, and in like manner as if the said acts had continued in full force and effect.

SEC. 4. *And be it further enacted*, That in case either Great Britain or France shall, before the third day of March next, so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States, which fact the President of the United States shall declare by proclamation, and if the other nation shall not within three months thereafter so revoke or modify her edicts in like manner, then the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes," shall, from and after the expiration of three months from the date of the proclamation aforesaid, be revived and have full force and effect, so far as relates to the dominions, colonies, and dependencies, and to the articles the growth, produce, or manufacture, of the dominions, colonies, and dependencies of the nation thus refusing or neglecting to revoke or modify her edicts in the manner aforesaid. And the restrictions imposed by this act shall, from the date of such proclamation, cease and be discontinued in relation to the nation revoking or modifying her decrees in the manner aforesaid.—Approved, May 1, 1810.

An Act making further appropriations for completing the Capitol, and for other purposes.

Be it enacted, &c., That, in addition to the appropriations heretofore made, the following sums of money be, and the same are hereby appropriated, to be applied under the direction of the

President of the United States, to the purposes hereinafter mentioned, that is to say:

For sculpture, and warming and ventilating the Chamber of the House of Representatives, seven thousand five hundred dollars:

For defraying the expense of completing the Court room, and the offices of the Judiciary, on the east side, completing the Senate Chamber and stopping the leaks in the roof of the north wing of the Capitol, twenty thousand dollars:

For repairs to the President's house and offices, five thousand dollars.

SEC. 2. *And be it further enacted*, That it be the duty of the Superintendent of the City of Washington, prior to any farther advances of money being made, to call for all claims now due on account of materials furnished or work done in the public buildings, in order that the same may be liquidated and paid.

SEC. 3. *And be it further enacted*, That the several sums of money hereby appropriated shall be paid out of any money in the Treasury not otherwise appropriated.—Approved, May 1, 1810.

An Act confirming the decisions of the Commissioners in favor of the claimants of land in the District of Kaskaskia.

Be it enacted, &c., That all the decisions made by the commissioners appointed for the purpose of examining the claims of persons claiming lands in the district of Kaskaskia, in favor of such claimants, as entered in the transcript of decisions, bearing date the thirty-first day of December, eighteen hundred and nine, which have been transmitted by the said commissioners to the Secretary of the Treasury according to law, be, and the same are hereby confirmed.

Approved, May 1, 1810.

An Act making appropriations for carrying into effect certain Indian treaties.

Be it enacted, &c., That, for the purpose of carrying into effect a treaty between the United States and the Delaware, Pottawatimies, and Eel river tribes of Indians, concluded at Fort Wayne, on the thirtieth day of September, one thousand eight hundred and nine, the sum of one thousand seven hundred and fifty dollars is hereby appropriated, to be paid to the said tribes annually, as follows:

To the Delawares, five hundred dollars;

To the Miamies, five hundred dollars;

To the Eel river tribe, two hundred and fifty dollars;

To the Pottawatimies, five hundred dollars;

Which several annuities shall be permanent.

SEC. 2. *And be it further enacted*, That, for carrying into effect a separate article entered into between the United States and the Miamies and Eel river tribes of Indians, at Fort Wayne, on the thirtieth of September, one thousand eight hundred and nine, the sum of five hundred dollars annually is hereby appropriated, for the term of three years, and no longer. And a further annuity of two hundred dollars to the Miamies tribe

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of Indians; and to the Wea and Eel river tribes a further annuity of one hundred dollars each, which shall be permanent.

SEC. 3. *And be it further enacted*, That, for carrying into effect a treaty concluded at Fort Wayne, on the twenty-sixth day of October, one thousand eight hundred and nine, between the United States and the Wea tribe of Indians, the sum of one thousand five hundred dollars is hereby appropriated, and a further sum of three hundred dollars annually, which annuity shall be permanent.

SEC. 4. *And be it further enacted*, That, for carrying into effect a treaty concluded at Vincennes, on the ninth day of December, one thousand eight hundred and nine, between the United States and the Kickapoo tribe of Indians, the sum of five hundred dollars is hereby appropriated, to be paid annually to the said tribe, which annuity shall be permanent.

SEC. 5. *And be it further enacted*, That the several sums appropriated by this act, shall be paid out of any money in the Treasury, not otherwise appropriated.—Approved May 1, 1810.

An Act fixing the compensation of public Ministers, and of Consuls residing on the coast of Barbary, and for other purposes.

Be it enacted, &c., That the President of the United States shall not allow to any Minister Plenipotentiary a greater sum than at the rate of nine thousand dollars per annum, as a compensation for all his personal services and expenses; nor to any Chargé des Affaires, a greater sum than at the rate of four thousand five hundred dollars per annum, as a compensation for all his personal services and expenses; nor to the secretary of any Legation or Embassy to any foreign country, or secretary of any Minister Plenipotentiary, a greater sum than at the rate of two thousand dollars per annum, as a compensation for all his personal services and expenses; nor to any Consul who shall be appointed to reside at Algiers, a greater sum than at the rate of four thousand dollars per annum, as a compensation for all his personal services and expenses; nor to any other Consul who shall be appointed to reside at any other of the States on the coast of Barbary, a greater sum than at the rate of two thousand dollars per annum, as a compensation for all his personal services and expenses; nor shall there be appointed more than one Consul for any one of the said States: *Provided*, It shall be lawful for the President of the United States to allow to a Minister Plenipotentiary or Chargé des Affaires, on going from the United States to any foreign country, an outfit, which shall in no case exceed one year's full salary of such Minister or Chargé des Affaires; but no Consul shall be allowed an outfit in any case whatever, any usage or custom to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That, to entitle any Chargé des Affaires, or secretary to any Legation or Embassy to any foreign country, or secretary of any Minister Plenipotentiary, to the compensation hereinbefore provided, they

shall respectively be appointed by the President of the United States, by and with the advice and consent of the Senate; but, in the recess of the Senate, the President is hereby authorized to make such appointments, which shall be submitted to the Senate at the next session thereafter, for their advice and consent; and no compensation shall be allowed to any Chargé des Affaires, or any of the secretaries hereinbefore described, who shall not be appointed as aforesaid: *Provided*, That nothing herein contained shall be construed to authorize any appointment of a secretary to any Chargé des Affaires, or to any Consul residing on the Barbary coast, or to sanction any claim against the United States for expense incident to the same, any usage or custom to the contrary notwithstanding.

SEC. 3. *And be it further enacted*, That where any sum or sums of money shall be drawn from the Treasury, under any law making appropriation for the contingent expenses of intercourse between the United States and foreign nations, the President shall be and he hereby is authorized to cause the same to be duly settled, annually, with the accounting officers of the Treasury, in the manner following, that is to say: By causing the same to be accounted for specially in all instances wherein the expenditure thereof may in his judgment be made public, and by making a certificate of the amount of such expenditures as he may think it advisable not to specify, and every such certificate shall be deemed a sufficient voucher for the sum or sums therein expressed to have been expended.

SEC. 4. *And be it further enacted*, That it shall not be lawful for the Consuls of the United States, residing on the Barbary coast, or either of them, to expend or to disburse or pay, or caused to be paid, for any purpose or on any pretence whatever, not authorized by law, to any one of the Barbary Powers, or to the officers or subjects thereof, a greater sum than three thousand dollars in any one year, with intent to charge the United States with the same, without first obtaining a special approbation in writing, from the President of the United States, for that purpose. And every such Consul who shall, after notice of this act, expend or disburse, or pay or cause to be paid for any purpose or any pretence whatever, not authorized by law, to any one of the Barbary Powers, or to the officers or subjects thereof, a greater sum than three thousand dollars in any one year, or shall be aiding or assisting therein, without first obtaining the approbation of the President as aforesaid, shall forfeit and pay to the Treasury of the United States a sum equal to one half his yearly compensation; and shall, moreover, stand charged with and be accountable for all moneys so disbursed or paid, contrary to the provisions of this act.

SEC. 5. *And be it further enacted*, That, from and after the first day of November next, no Consul of the United States, residing on the Barbary coast, shall own, in whole or in part, any ship or vessel, to be concerned directly or indirectly in the exportation from, or importation to,

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any of the States on the coast of Barbary, of any goods, wares, or merchandise, on penalty that every Consul so offending, and being thereof convicted, shall for every offence forfeit a sum not exceeding one thousand dollars.

SEC. 6. *And be it further enacted*, That it shall be the duty of the Consuls residing on the Barbary coast to transmit to the Secretary of the Treasury, annually, an account of all moneys received, and of all disbursements or expenditures made by them, respectively, for or on account of the United States, and the particular purpose to which the moneys have been applied, and the vouchers to support the same: and the Secretary of the Treasury shall transmit to Congress, within two months after the commencement of the first session thereof, in every year, a statement of all the moneys disbursed from the Treasury of the United States, for expenses of intercourse with the Barbary Powers during the preceding year, therein noting, as far as can be ascertained at the Treasury, the sums received by the agents or Consuls, and the purposes to which the same have been applied.

SEC. 7. *And be it further enacted*, That the act, entitled "An act in addition to the law of the United States concerning Consuls and Vice Consuls," approved July sixth, one thousand seven hundred and ninety-seven, and the act, entitled "An act to ascertain the compensation of public Ministers," approved May the tenth, one thousand eight hundred, be and the same are hereby repealed.—Approved, May 1, 1810.

An Act in addition to an act, entitled "An act concerning the Library for the use of both Houses of Congress."

Be it enacted, &c., That the President of the Senate and Speaker of the House of Representatives, for the time being, be and they are hereby authorized to grant the use of the books in the Library of Congress, to the agent of the joint committee of Congress appointed in relation to the Library, on the same terms, conditions, and restrictions, as members of Congress are allowed to use said books, anything contained in any former law to the contrary notwithstanding.

Approved, May 1, 1810.

An Act authorizing a loan of money, for a sum not exceeding the amount of the principal of the public debt, reimbursable during the year one thousand eight hundred and ten.

Be it enacted, &c., That the President of the United States be and he is hereby empowered to borrow, on the credit of the United States, a sum not exceeding the amount of the principal of the public debt, which will be reimbursed, according to law, during the present year, by the Commissioners of the Sinking Fund, at a rate of interest payable quarter yearly, not exceeding six per centum per annum, and reimbursable at the pleasure of the United States, or at such period as may be stipulated by contract, not exceeding six years, from the first day of January next; to be applied,

in addition to the moneys now in the Treasury, or which may be received therein from other sources during the present year, to defray any of the public expenses which are, or may be authorized by law. The stock thereby created, shall be transferable in the same manner as is provided by law for the transfer of the funded debt. It shall be lawful for the Bank of the United States to lend the said sum or any part thereof; and it is further hereby declared, that it shall be deemed a good execution of the said power to borrow, for the Secretary of the Treasury, with the approbation of the President of the United States, to cause to be constituted certificates of stock, signed by the Register of the Treasury, or by a commissioner of loans, for the sum to be borrowed, or for any part thereof, bearing an interest of six per cent. per annum, transferable and reimbursable as aforesaid; and to cause the said certificates of stock to be sold: *Provided*, That no such stock be sold under par.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury be and he is hereby authorized, with the approbation of the President of the United States, to give the preference, in the subscriptions which may be made to the loan authorized by this act, to the holders of the exchanged six per cent. stock, created by virtue of the second section of the act passed on the eleventh day of February, one thousand eight hundred and seven, for an amount not exceeding, for each such stockholder, the amount of the said exchanged six per cent. stock held by him at the time of subscribing as aforesaid: *Provided*, That the holders of the said stock, who may be desirous to subscribe to the said loan, shall notify the same in the manner and within the time to be designated by public notice, for that purpose, by the Secretary of the Treasury, with the approbation of the President of the United States: *And provided, also*, That the sum which may be thus borrowed from the holders of the said exchanged six per cent. stock shall be reimbursable at the pleasure of the United States.

SEC. 3. *And be it further enacted*, That so much of the funds constituting the annual appropriation of eight millions of dollars for the payment of the principal and interest of the public debt of the United States, as may be wanted for that purpose, is hereby pledged and appropriated for the payment of the interest and for the reimbursement of the principal of the stock, which may be created by virtue of this act. It shall accordingly be the duty of the Commissioners of the Sinking Fund, to cause to be applied and paid out of the said fund yearly, and every year, such sum and sums as may be annually wanted to discharge the interest accruing on the said stock, and to reimburse the principal, as the same shall become due, and may be discharged in conformity with the terms of the loan; and they are further authorized to apply, from time to time, such sum or sums out of the said fund as they may think proper, toward redeeming by purchase, and at a price not above par, the principal of the said stock, or any part thereof. And the faith of the

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United States is hereby pledged to establish sufficient revenues for making up any deficiency that may hereafter take place in the funds hereby appropriated for paying the said interest and principal sums, or any of them, in manner aforesaid.

Approved, May 1, 1810.

An Act to erect a light-house at the entrance of Scituate harbor, a stone column on a spit of sand at the entrance into Boston harbor, and a beacon on Beach point near Plymouth harbor in the State of Massachusetts; a light at the entrance of Bayou St. John, into Lake Pontchartrain, and two lights on Lake Erie, and for beacons and buoys, near the entrance of Beverly harbor.

Be it enacted, &c., That, on the cession of the jurisdiction of so much land on one of the points forming the entrance of Scituate harbor, in the State of Massachusetts, as the President of the United States shall deem sufficient and most proper for a light-house, it shall be the duty of the Secretary of the Treasury to provide by contract for building of a light-house of stone thereon, and placing it on the like establishment with other light-houses. The number and disposition of the lights shall be such as may distinguish it from those of others.

SEC. 2. *And be it further enacted,* That it shall be the duty of the Secretary of the Treasury to cause to be erected a column of stone, as a beacon, on a spit of sand, extending from Light-House, or from the Great Brewster island, at the entrance of the harbor of Boston, in the State of Massachusetts, of such form and dimensions as he shall deem necessary. And also to cause good and sufficient buoys and beacons to be placed, for the safety of navigation, at or near the entrance of the harbor of Beverly, in Massachusetts.

SEC. 3. *And be it further enacted,* That one of the two beacons directed to be erected on the Stony Muscle Bed, near Plymouth harbor, in the State of Massachusetts, by an act which passed the seventeenth of March, eighteen hundred and eight, be and the same is hereby directed to be erected on Beach point, near the said harbor of Plymouth.

SEC. 4. *And be it further enacted,* That the Secretary of the Treasury be and he is hereby authorized to cause to be erected and established, under proper regulations, such a light as he shall deem proper and necessary, at or near the entrance of Bayou St. John into Lake Pontchartrain, in the Territory of Orleans; and such lights as he shall deem proper on or near Bird island, and on or near Presque Isle, in Lake Erie.

SEC. 5. *And be it further enacted,* That there be appropriated out of any moneys in the Treasury of the United States, not otherwise appropriated, the following sums of money to accomplish the purposes of this act, to wit:

For the erection of a light-house, at the entrance of Scituate harbor, four thousand dollars.

For the erection of a stone column on a spit of sand, extending from Light-House island, at the entrance of Boston harbor, three thousand five hundred dollars.

And for the erection and establishment of a light at the entrance of Bayou St. John into Lake Pontchartrain, two thousand dollars.

And for the erection and establishment of two lights on Lake Erie, one thousand six hundred dollars.

And for beacons and buoys near the entrance of Beverly harbor, the sum of fifteen hundred dollars.—Approved, May 1, 1810.

RESOLUTION.

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the expressions contained in the official letter of Francis J. Jackson, Minister Plenipotentiary of His Britannic Majesty near the United States, dated the 23d day of October, 1809, and addressed to Mr. Smith, Secretary of State, conveying the idea that the Executive Government of the United States had a knowledge, that the arrangement lately made by Mr. Erskine, his predecessor, in behalf of his Government, with the Government of the United States, was entered into without competent powers on the part of Mr. Erskine for that purpose, were highly indecorous and insolent: That the repetition of the same intimation in his official letter dated the 4th of November, 1809, after he was apprized, by the asseveration of the Secretary of State, that the Executive Government had no such knowledge, and that if it had possessed such knowledge, such arrangement would not have been entered into on the part of the United States; and after also being officially apprized, that such intimation was inadmissible, was still more insolent and affronting; and that in refusing to receive any further communications from him, in consequence of these outrageous and premeditated insults, the Executive Government has manifested a just regard to its own dignity and honor, as well as to the character and interest of the American people: That the letter, signed Francis J. Jackson, headed "Circular," dated 13th November, 1809, and published and circulated through the country, is a still more direct and aggravated insult and affront to the American people and their Government, as it is evidently an insidious attempt to excite their resentments and distrusts against their own Government, by appealing to them, through false or fallacious disguises, against some of its acts; and to excite resentments and divisions amongst the people themselves, which can only be dishonorable to their own characters and ruinous to their own interests: And the Congress of the United States do hereby solemnly pledge themselves to the American people, and to the world, to stand by and support the Executive Government in its refusal to receive any further communications from the said Francis J. Jackson, and to call into action the whole force of the nation, if it should become necessary, in consequence of the conduct of the Executive Government in this respect, to repel such insults, and to assert and maintain the rights, the honor, and the interests of the United States.—Approved, January 12, 1810.